

DBEDT 15-26 ALOHA TOWER DEVELOPMENT CORPORATION, RULES OF PRACTICE AND
PROCEDURE

HAR TITLE 15 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT
SUBTITLE 5 ALOHA TOWER DEVELOPMENT CORPORATION

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SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§15-26-1 Purpose.

This chapter governs procedures before the aloha tower development corporation under chapter 206J, HRS, and shall be construed to effectuate the purpose of the chapter and to secure the just and efficient determination of every proceeding. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§15-26-2 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

"Aloha Tower complex" means that parcel of land described by section 206J- 3, HRS;

"Board" means the board of directors who constitute the governing body of the development corporation, as provided by section 206J-4 (b), HRS;

"Bonds" means revenue bonds, special facilities revenue bonds, notes or other instruments of indebtedness of the development corporation issued under this chapter and shall include refunding bonds.

"Chairperson" means the state director of business and economic development or his designee, who is designated as chairperson of the board by section 206J-4 (b), HRS;

"Designated representative" means any person designated in writing by the state director of business and economic development, the state director of transportation, the chairperson of the state board of land and natural resources, or the mayor of the city and county of Honolulu, to represent the designator as an ex officio voting member of the board.

"Developer-lessee" means the entity selected to enter into the development agreement and lease with the development corporation and/or the development corporation's public sector joint venturers.

"Development agreement" means the plan for development of the project as agreed upon by the board and the developer-lessee after the developer's selection and as authorized by section 206J-5(7), HRS.

"Development area" means the geographic area on which a project will be developed, which area may include all or any part of the Aloha Tower complex and any property outside the Aloha Tower complex that is under the jurisdiction of public sector joint venturers.

"Development corporation" means the Aloha Tower development corporation established by section 206J-4.

"Ex officio member" means the state director of business and economic development, state director of transportation, the chairperson of the state board of land and natural resources, or the mayor of the city

"Executive officer" means the chief administrative officer of the development corporation appointed by the board pursuant to section §206J-4 (d), HRS.

"HRS" means the Hawaii Revised Statutes.

"Maritime" means the administration of chapter 266 by the department of transportation.

"Meeting" means the convening of the board for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter under the supervision or control of the board.

"Petitioner" means any person or agency that petitions the board, or on whose behalf a petition is made to the board, and concerning which the board may take action under statutory or other powers granted to it.

"Proceeding" means any matter brought before the board which is given consideration in light of the powers and duties of the board as provided by law.

"Project" means an undertaking of work or improvement of public or private real or personal property or any interest therein, developed, acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by the development corporation, by itself or in conjunction with qualified persons, and including public facilities and, any law to the contrary notwithstanding, facilities for and functionally related and subordinate to maritime purposes.

"Project cost" means the total cost in carrying out all undertakings that the development corporation deems reasonable and necessary for the development of a project, including but not limited to the cost of studies, surveys, plans and specifications, architectural, design, engineering, or any other special related services; the cost of site preparation and development, demolition, construction, reconstruction, rehabilitation, and improvement; the cost of financing such project, including interest on bonds issued to finance such project from the date thereof to the estimated date of completion of such project as determined by the board; the cost of an allocable portion of the administrative and operating expenses of the development corporation related to the development of such project; and the cost of any indemnity and surety bonds, premiums on policies of insurance, legal fees, and fees and expenses of trustees, depositories, and paying agents for the bonds; all as the development corporation shall deem necessary.

"Public agency" means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of the federal, state, or county government.

"Public facilities" means streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in the area, parking garages, sidewalks, pedestrian ways, parks and other community facilities.

"Public sector joint venturer" shall mean any public agency with which the development corporation enters into a joint venture or other cooperative arrangement to develop a project which encompasses the Aloha Tower complex and such other property as may be under the jurisdiction of such agency.

"Qualified person" means any individual, partnership, corporation, or any public agency, possessing the competence, expertise, experience and resources, including financial, personnel, and tangible resources, required for the purposes of the project and such other qualifications as may be deemed desirable by the development corporation in administering this chapter.

"Real property" means lands, structures, and interests therein and natural resources including water, minerals, and all such things connected with land, including lands under water and riparian rights, space rights, and air rights and any and all other things and rights usually included within the term. Real property also means any and all interests in such property less than fee title, such as leasehold interests, easements, incorporeal hereditaments, and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgements, mortgages, or otherwise [Eff FEB 09 1989]

(Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §206J-2, as amended, 206J-5(5))

§15-26-3 Grammatical usage.

(a) Words used in the present tense include the future tense.

(b) The singular number includes the plural; and the plural, the singular.

(c) The word "shall" is always mandatory.

(d) The word "may" is always permissive.

(e) Terms not defined in this chapter shall have the meanings customarily assigned to them. [Eff FEB 09 1989] (Auth: HRS §206J-5) (Imp: HRS §91-2, § 206J-5)

§15-26-4 Office and office hours.

(a) The office of the development corporation is in Honolulu, Hawaii. All communications to the development corporation shall be addressed to Room 410, State Capitol, Honolulu, Hawaii 96813, unless otherwise directed by the development corporation.

(b) The office of the development corporation shall be open from 7:45 a.m. to 4:30 p.m., Monday through Friday, unless otherwise provided by statute or executive order. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 206J-5)

§15-26-5 Executive officer.

(a) An executive officer shall be appointed by the board. The executive officer shall be directly responsible to the board, and shall have control over and responsibility for the execution of the board's policies, the administration of its affairs, and the supervision of its staff.

(b) The executive officer shall prepare a hearing calendar and the agenda for all meetings, under the direction of the chairperson.

(c) The executive officer shall prepare for the development corporation the draft of an annual report of the board's activities, accomplishments, and recommendations for submission to the governor and to the legislature through the governor.

(d) The executive officer may be appointed by the board to serve as hearing officer.

(e) The executive officer in conjunction with and as directed by the board shall evaluate proposals to develop projects on all or any part of the Aloha Tower complex pursuant to subchapter 3.

(f) The executive officer may employ planning, financial, economic, legal, architectural and other consultants as the board may decide in its sole discretion to help it carry out the statutory purposes of the development corporation.

(g) The executive officer shall, with the board's approval, appoint such officers, agents, and employees as are necessary to fulfill the purposes of chapter 206J, HRS, and shall prescribe their duties and qualifications, and fix their salaries, consistent with chapters 76 and 77, HRS. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 206J-5)

§15-26-6 Public records.

The term "public records" shall have the same meaning as is defined in chapter 92, HRS, and shall include maps, rules, written statements of policy or interpretation formulated, adopted, or used by the board in its functions, all decision, orders, minutes of board meetings, and records of any docket on file with the board, but shall not include records which invade the right of privacy of an individual. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 92-21, 92-50, 92-51, 206J-5)

§15-26-7 Meetings; generally.

(a) The board may meet and exercise its powers in any part of the State of Hawaii. Except as provided in sections 92-4 and 92-5, HRS, all of the board meetings are open to the public. The parliamentary procedure to be utilized by the board in the conduct of its meetings shall be based on the current edition of Robert's Rules of Order, Newly Revised, only if it does not conflict with chapter 91, HRS, or these rules.

(b) The board shall allow all interested persons an opportunity to submit data, views, arguments or present oral testimony on any agenda item in an open meeting. The board may provide for the recordation of all oral testimony presented.

(c) The board shall comply with the provisions of section 92-7, HRS, by providing the required written public notice of any meeting. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 92-3)

§15-26-8 Executive Meetings.

(a) The board may hold an executive meeting from which the public may be excluded pursuant to section 92-4, HRS.

(b) The board shall not finally act upon any ruling, rule, contract, appointment, or decision in an executive meeting, except as provided in section 92-5 (a) (1) to (6), HRS. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 92-4, 92-5, 206J-5)

§15-26-9 Emergency meetings.

The board may hold not an emergency meeting that does comply with the notice requirement of section

92-7, HRS, under conditions specified in section 92-8, HRS. [Eff FEB 09 1989] (Auth: §§91-2, 206J-5) (Imp: HRS §92- 8)

§15-26-10 Quorum and number of votes necessary for a decision; designated representatives.

(a) Unless otherwise provided by law, a majority of all the members to which the board is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all the members to which the board is entitled also shall be necessary to make a board decision valid.

(b) A designated representative shall serve as a voting member when representing an ex officio member. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §92-15)

§15-26-11 Removal of persons from meetings.

The presiding officer may remove any person who willfully disrupts a meeting. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §92-3)

§15-26-12 Minutes of meetings.

(a) The board shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting shall be required, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The minutes shall include, but need not be limited to:

(1) The date, time, and place of meeting;

(2) The members of the board recorded as either present or absent;

(3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and

(4) Any other information that any member of the board requests be included or reflected in the minutes.

(b) The minutes shall be public records and shall be available within thirty days after the meeting except where the disclosure would be inconsistent with section 92-5, HRS. The board may withhold publication of the minutes of executive meetings so long as their publication would defeat the lawful purpose of the executive meeting, but no longer. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §92-9)

§15-26-13 Computation of time.

In computing any period of time under the rules as provided in this chapter, by notice, or by any order, or rule of the board, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the prescribed period of time is not more than ten days, Saturdays, Sundays or legal holidays within the designated period shall be excluded in the computation. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §91-2)

§15-26-14 Authentication of board actions.

All actions, decisions, and orders of the board requiring authentication shall be signed by the chairperson, or in the chairperson's absence, by the executive officer of the development corporation. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§15-26-15 Submittals and requests of petitioners.

All submittals and requests requiring action by the board shall be made in writing and filed with the office of the development corporation at least ten calendar day before the date of a scheduled meeting. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§15-26-16 Inspection of public records; requests for public information.

All public records of the development corporation shall be available for inspection by any person during office hours unless public inspection of such records is in violation of any state or federal law, or of any court order. Requests for inspection of public records and for public information shall be referred to the executive officer, or to a subordinate staff member designated by the executive officer. As used in this section, the term "public records" shall be as defined by section 92- 50, HRS. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§15-26-17 Delegation of administrative duties.

(a) The board may delegate to the executive officer any power or authority vested in the board as it deems reasonable and proper for the effective administration of chapter 206J, HRS, except the power to adopt, amend, or repeal rules; and any power or authority expressly reserved to the board by statute or rule.

(b) The board may appoint a hearing officer to conduct a proceeding as provided in this chapter and pursuant to the requirements of chapter 91, HRS. [Eff FEB 09 1989] (Auth: HRS §206J-5 (5)) (Imp: HRS §206J-5(5))

§15-26-18 to 15-26-20 (Reserved).

SUBCHAPTER 2

PROCEEDINGS BEFORE THE DEVELOPMENT CORPORATION

§15-26-21 General rule.

All petitioners shall comply with these rules of practice and procedures when appearing before the board. Procedures to be followed by the board, unless specifically prescribed in this chapter or by chapter 91, HRS, shall be those which, in the opinion of the board, will best serve the purposes of the proceeding. The board may waive or suspend the provisions of this chapter. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5 (5))

§15-26-22 Appearances before the board.

(a) Any party to any proceeding before the board may appear pro se or be represented by an authorized representative.

(b) When an individual acting in a representative capacity appears in person or signs a paper submitted to the board, the personal appearance or signature of that individual shall constitute a representation to the board that under the provisions of this chapter and the applicable statute, the individual is authorized and qualified to represent that particular person or entity. The board, at any time, may require any person transacting business with the development corporation in a representative capacity to authenticate the person's authority and qualification to act. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§15-26-23 Disqualification of board members.

Up to five calendar days before the proceeding a petitioner may file an affidavit alleging that one or more of the board members has a personal bias or prejudice. Every such affidavit shall state the facts and reasons for the belief that bias or prejudice exists. Any member against whom the affidavit is filed may answer the affidavit in which case the chairperson shall decide whether that member should be disqualified from the proceeding. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§15-26-24 Filing of papers.

(a) All requests, submittals, petitions, reports, maps, exceptions, plans, memoranda, and other papers required to be filed with the development corporation pursuant to any proceeding shall be filed within the time limits prescribed by law, rules, or by order of the board. The date on which the papers are received by personal service or by mail shall be regarded as the date of filing.

(b) All papers filed with the development corporation shall be:

(1) Written in black ink, typewritten, mimeographed, or printed;

(2) Plainly legible; and,

(3) On strong, durable paper no larger than 8-1/2" x 14" in size, except that maps, charts, tables, and other like documents may be larger, folded to the size of the papers to which they are attached.

(c) Reproduction may be by any process, provided all copies are clear and permanently legible.

(d) The original of each paper shall be signed in ink by the party.

(e) All papers shall be signed by the petitioner. The signature shall constitute a verification that the paper

has been read and that to the best knowledge, information, and belief of that person:

(1) Every statement contained therein is true;

(2) No statement is misleading; and,

(3) That the paper is not interposed for delay.

(f) Unless otherwise required by this chapter or the board, there shall be filed with the development corporation an original and seven copies of each paper. Additional copies shall be promptly provided if requested by the chairperson or executive officer.

(g) If any paper filed with the development corporation is not in substantial conformity with the applicable rules of the development corporation, on its own motion or on motion of any party, the board may strike the paper or require its amendment. If amended, the paper shall be effective as of the date of the receipt of the amendment.

(h) All papers filed with the development corporation shall be retained for a reasonable time by the board in its files. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5(5))

§15-26-25 Continuances or extensions of time.

Whenever a person or agency is required to take action within the period prescribed or allowed by this chapter, or by notice given under this chapter, or by an order, the chairperson may:

(1) With or without notice, extend the period before the expiration of the prescribed period; or

(2) Upon motion, permit the act to be done after the expiration of a specified period where the failure to act is reasonably shown to be excusable. [Eff FEB 09 1989] (Auth: HRS §§91-2, 206J-5(5)) (Imp: HRS §§91-2, 206J-5 (5))

§§15-26-26 and 15-26-27 (Reserved).

SUBCHAPTER 3

RULEMAKING PROCEDURE

§15-26-28 Initiation of rulemaking procedure.

(a) The adoption, amendment, or repeal of any rule of the development corporation may be made by the board on its own motion, or by petition of any interested person or agency.

(b) Petitions for rulemaking shall conform to the requirements of §15-26-17 and shall contain:

(1) The name, address, and telephone number of each petitioner;

(2) The signature of each petitioner;

(3) A draft or the substance of the proposed rule or amendment or a designation of the provisions the repeal of which is desired;

(4) A statement of the petitioner's interest in the subject matter; and

(5) A statement of the reasons in support of the proposed rule, amendment, or repeal.

(c) Within thirty days after the filing of a petition for rulemaking, the board shall either deny the petition or initiate rulemaking proceedings. [Eff FEB 09 1989] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§15-26-29 Denial of petition.

Any petition that fails in any material respect to comply with the requirements of this chapter or fails to disclose sufficient reasons to justify the institution of public rulemaking proceedings shall not be considered by the board. The board shall notify the petitioner in writing of the denial, stating the reasons therefor. Denial of a petition shall not operate to prevent the board from acting, on its own motion, upon any matter disclosed in the petition. [Eff FEB 09 1989] (Auth: HRS §91-6) (Imp: HRS §91-6)

§15-26-30 Acceptance of petition.

If the board determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rulemaking to justify the institution of rulemaking proceedings, the procedures to be followed shall be as set forth in this chapter and the applicable provisions of chapter 91, HRS. [Eff FEB 09 1989] (Auth: HRS §91-6) (Imp: HRS §91-6)

§15-26-31 Notice of public hearing.

(a) Whenever, pursuant to a petition or upon its own motion, the board proposes to adopt, amend, or repeal any rule, a notice of proposed rulemaking shall be published at least once in a newspaper of general circulation in the State. The notice shall also be mailed to all agencies or persons who have made timely written requests for advance notice of the development corporation's rulemaking proceedings. All notices shall be published at least twenty days prior to the date set for public hearing.

(b) A notice of the proposed adoption, amendment, or repeal of any rule shall include:

(1) A statement of the date, time, and place where the public hearing will be held;

(2) Reference to the authority under which the adoption, amendment, or repeal of the rule is proposed; and

(3) A statement of the substance of the proposed rule. [Eff FEB 09 1989] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§ 91-3, 91-6, 92-41)

§15-26-32 Hearing procedures.

(a) The public hearing before the development corporation shall be presided over by the chairperson, or, in the chairperson's absence, by another board member or hearing officer designated by the board. A quorum of the board shall not be required in the conduct of a hearing. Interested individuals and agencies shall have a reasonable opportunity to offer testimony with respect to the matters specified in the notice of hearing. A clear and orderly record shall be obtained. The presiding officer shall be authorized to administer oaths or affirmations and to take all other actions necessary to the orderly conduct of the hearing.

(b) Each hearing shall be held at the time and place set in the notice of hearing but may at such time and place be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement at the hearing.

(c) At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall outline briefly the procedure to be followed. Testimony shall then be received with respect to the matters specified in the notice of hearing in the order the presiding officer prescribes.

(d) To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue.

(e) The presiding officer shall have any person who wilfully disrupts a hearing to prevent or compromise the conduct of the hearing removed from the hearing room.

(f) Before proceeding to testify, witnesses shall state their name, address, and whom they represent at the hearing, and shall give any information respecting their appearance as the presiding officer may request. The presiding officer shall confine the testimony to the matters for which the hearing has been called but shall not apply the technical rules of evidence. Witnesses shall be subject to questioning by the members of the board or by any other representative of the board.

(g) All interested persons or agencies shall be afforded an opportunity to submit data, views, or arguments orally or in writing that are relevant to the matters specified in the notice of hearing. The period for filing written comments or recommendations may be extended beyond the hearing date by the presiding officer for good cause. An original and seven copies shall be required when submitting written comments, recommendations, or replies.

(h) Unless otherwise specifically ordered by the board, testimony given at the public hearing shall not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that furnishing copies is impracticable, eight copies of the exhibits shall be submitted. [Eff FEB 09 1989] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§15-26-33 Board action.

The board shall consider all relevant comments and materials of record before taking final action in a rulemaking proceeding. Final action shall be taken within a reasonable amount of time following:

(1) The final public hearing; or

(2) The expiration of any extension period for submission of written comments or recommendations,

whichever occurs later. [Eff FEB 09 1989] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§15-26-34 Emergency rulemaking.

The board may adopt emergency rules pursuant to the requirements of section 91-3(B), HRS. [Eff FEB 09 1989] (Auth: HRS §91-2) (Imp: HRS §91-3)

§§15-26-35 and 15-26-36 (Reserved).

SUBCHAPTER 4

DEVELOPMENT GUIDELINES

§15-26-37 Statutory purpose.

The development corporation was established for the purpose of undertaking the redevelopment of the Aloha Tower complex in order to strengthen the international economic base of the community in trade activities, to enhance the beautification of the waterfront, to better serve modern maritime uses, and to provide for public access and use of the waterfront property, all of which are intended to further serve as a stimulant to the commercial activities of the downtown business community and help transform the waterfront into a people place. The development corporation may act alone or enter into any form of joint venture or other undertaking with any other governmental agency for the purpose of meeting its purpose of redeveloping the Aloha Tower and adjoining waterfront areas. [Eff FEB 09 1989] (Auth: HRS §206J-5 (a) (5)) (Imp: HRS §§206J-1, 206J-5(9))

§15-26-38 Development objectives.

In order to achieve its statutory purposes, the development corporation shall be guided by the following development objectives in formulating a development plan for the Aloha Tower complex and in selecting any proposal submitted by any qualified person for the development of all or any part of the Aloha Tower complex or related areas.

- (1) Ensure the project is capable of integration into any overall development plan which may be adopted for the Honolulu waterfront.
- (2) Maintain passenger ship operations in a manner compatible with the development of the downtown waterfront as a people place and in conformity to the maritime requirements of the department of transportation.
- (3) Balance practical economic and market realities with a vision of what can be created.
- (4) Provide ease of pedestrian access to the project and waterfront, and generous open spaces for public enjoyment by eliminating visual and physical barriers between the waterfront and downtown, and by creating strong pedestrian links between downtown and Aloha Tower, particularly along Fort and Bishop streets.
- (5) Improve view corridors down Fort street, Bishop street and Alakea street.
- (6) Expand and improve Irwin park while maintaining its rich vegetation.
- (7) Create a homogeneous project that avoids fragmentation.
- (8) Feature and enhance the physical, public use and visual characteristics of the historic Aloha Tower.
- (9) Minimize unattractive physical facilities (e.g. parking, utilities, service and back-of-house operations).
- (10) Plan buildings and project features to attract people to the waterfront and create a major public gathering place at the Aloha Tower complex by enhancing public access to and along the water's edge and by creating opportunities for a variety of water's-edge experiences appropriate to the downtown waterfront.
- (11) Develop uses which would stimulate and be compatible with the commercial activities of the downtown business community, which may include, but need not be limited to, retail, restaurant, office, hotel, condominium, recreational, historical and cultural uses; and create new activities to assist in bringing people to the waterfront.
- (12) Provide accessible vehicular ingress and egress, and create a parking strategy which minimizes both the cost and impact of parking on the Aloha Tower complex.
- (13) Establish a construction phasing strategy which will minimize disruption of maritime operations and achieve planned development of the Aloha Tower in the earliest practicable time.

(14) Create a financially feasible and aesthetically creative project which can be initiated at the earliest practicable time.

(15) Encourage, to the extent possible, development of the Aloha Tower complex and adjoining areas by a qualified private sector developer who will provide all or substantially all of the costs of development.

(16) Utilize the powers of the development corporation to transcend, as necessary, zoning, density and height limitations in an aesthetically pleasing manner to accomplish the goals of the development corporation and to encourage private sector developers to undertake development plan solutions which will satisfy the foregoing development objectives. [Eff FEB 09 1989] (Auth: HRS §206J-5) (Imp: HRS §§206J-1, 206J-5, 206J-6, 206J-7)

§§15-26-39 and 15-26-40 (Reserved).

SUBCHAPTER 5

SELECTION OF DEVELOPERS

§15-26-41 Authority to select developers.

Except to the extent it may be limited by the terms of any joint venture agreement with a public agency, the development corporation has sole authority to select any qualified person to be a developer-lessee. [Eff FEB 09 1989] (Auth: HRS §206J-5) (Imp: HRS §§206J-5, 206J-11)

§15-26-42 Selection process.

The development corporation, by itself or in conjunction with any public sector joint venturer, may select qualified persons to develop a development area pursuant to a process of direct negotiation, a request for proposals, a competitive bidding process, or a combination of any or all of the above. The development corporation shall determine the method for pursuing its objectives, either alone or in conjunction with a joint venturer, or through a cooperative arrangement with other governmental agencies. [Eff FEB 09 1989] (Auth: HRS §206J-5 (a)(5)) (Imp: HRS §§206J-5, 206J-10, 206J-11)

§15-26-43 Environmental assessment.

Either before or after select, on of a qualified person to develop a development area and prior to any actual construction or alteration of the Aloha Tower complex or related areas, the development corporation, by itself or in conjunction with any public sector joint venturer, shall cause an environmental assessment or environmental impact statement to be prepared in compliance with chapter 343, HRS. In the case where developer selection is accomplished through a request-for-proposal process or a process of direct negotiation, preparation of an environmental assessment or environmental impact statement may be one of the selection criteria. Where a developer is selected by competitive bidding, preparation of an environmental assessment or environmental impact statement may be a part of the subject matter of the bid, or may be accomplished by the development corporation alone or in conjunction with a public sector joint venturer at public expense, provided appropriations are available. [Eff FEB 09 1989] (Auth: HRS §206J-5) (Imp: HRS §343-5)

§15-26-44 Request for proposals.

Should the development corporation and any joint venturer determine to select a developer for a project through a request for proposals, the process shall encompass a publicly advertised request for proposals, an evaluation of submitted proposals, selection of a qualified person based upon its submitted proposals, and finally, direct negotiation for a development agreement. The selection process shall be as follows:

(1) The RFP may be developed and prepared by the executive officer in conjunction with any public sector joint venturer, and shall generally delineate the scope of the development area geographically and in terms consistent with the objectives of the development corporation as set forth herein.

(2) After approval of the board and of the head or governing body of any public sector joint venturer, the development corporation and any joint venturer shall issue a request for proposal (hereinafter "RFP") covering a proposed development area.

(3) Notice for the RFP shall be published not less than three times in the two major Honolulu newspapers.

No more than one of these publications shall be made on any one day or on two consecutive days. Notice for the RFP shall also be published in the wall street journal once a week for a two-week period. Additional publication may be accomplished in the board's discretion.

(4) The executive officer shall hold a pre-presentation briefing for interested parties as soon as practicable following the last publication of the notice of the RFP to discuss the development objectives of the specific project in the development area, the selection process, and the selection criteria.

(5) The RFP shall require that any party interested in being a developer- lessee of the proposed development area shall submit a detailed proposal inclusive of, but not limited to, a description of the developer, its experience and its basic development team, architecturally prepared schematic drawings, proposed footprints of the buildings, preliminary traffic studies and solutions prepared by certified engineers and designers, feasibility studies, anticipated benefit to the State of Hawaii, and timetable for construction as set forth in more detail in §15-26-45 below. Each candidate must submit market studies or other satisfactory evidence to support the financial feasibility of its proposal.

(6) All responses to the RFP must be submitted within the time set forth in the RFP after the date of final publication of the notice of the RFP, and only those parties submitting responses that meet the minimum submission requirements and qualifications as set forth in §15-26-45 and § 15-26-46 below shall be considered as the potential developer-lessee of the project as described in the RFP. The contents of any proposals received shall be kept confidential and shall not be distributed in any case to other parties who are participating in the RFP process until after a long term lease and development agreement are executed.

(7) The development corporation by itself, or in conjunction with any public joint venturer, shall review all responses to the RFP and may require each party who has submitted a response to make a presentation of its proposal to the development corporation and its public sector joint venturer, if any. These presentations and interviews shall be timed, scheduled, and otherwise organized at the sole discretion of the board. Because responders may be required to disseminate proprietary or other confidential information during such presentations, the presentations will be limited to members of the board, officers, and staff of the development corporation and their counsel, and corresponding board members, officers, staff and counsel of any public sector joint venturer; and the substance of such presentations shall be kept private and confidential until after a long term lease and development agreement are executed. The presentations shall be exclusively for purposes of fact-finding and investigation, and in no case shall the board make any decisions or deliberate toward any decision regarding selection of a developer or development proposal at presentation sessions.

(8) As soon as practicable following the final presentation, the development corporation and any public sector joint venturer shall publicly announce the selection of the developer-lessee and shall then enter into negotiations for a development agreement for development of the project and for issuance of a long-term lease for the development area. The development corporation and the selected developer-lessee shall conclude their negotiations and execute said document as soon as practicable after announcement of selection of the developer-lessee. Failure to enter into a long-term lease and development agreement within six months may disqualify the selected developer, and the board may select developers from the remaining proposals or may repeat the RFP process from the first step. [Eff 02/09/89; Am OCT 06 1989] (Auth: HRS §206J-5) (Imp: HRS §§2065-5, 2065-11)

§15-26-45 Submission requirements.

Any interested person wishing to respond to a request for proposals shall submit 20 copies of the following information and material as part of its proposal:

(1) Qualifications of developer-lessee

(A) Identification of the type of any legal entity with whom the development corporation might enter into a long-term lease and development agreement.

(B) Identification of the developer-lessee and its project team, including key design consultants, including all joint venture or limited partners and their respective percentage of interest in the developer-lessee, if any.

(C) The previous relevant project experience of the developer-lessee and its project team (including joint

venture partners); photographs, brief description of projects (date, location, concept, land uses, size, construction cost, role of development entity, etc.)

(D) The previous experience of the developer-lessee and its project team in on-going management and operation of facilities with uses similar to those proposed in the RFP and relevant experience, description of previous projects and role of consultants in the developer-lessee's proposal.

(E) Satisfactory evidence from the developer-lessee (including its joint venture partners) to support the financial feasibility of the developer-lessee's proposal.

(F) Three copies of the developer-lessee's most recent audited financial statements must be submitted confidentially under separate cover.

(G) Organizational and management approach, and role of each development partner and major consultant, in the development.

(H) Developer-lessee references.

(2) Description of proposal

(A) Identification of the complete development team.

(B) A complete description of the proposed development including:

(i) Narrative description of the development plan, design concepts and buildings' orientation.

(ii) Complete preliminary building floor plans, illustrating the proposed project, individual buildings, parking systems and service facilities. Organizational schemes of ground floor activities and roof top treatments.

(iii) Elevations, indicating building materials, longitudinal and cross sections, sketches of major interior spaces, edge conditions and site perspective drawings and/or building mass model.

(C) Financial pro forma and development schedule, consisting of:

(i) Summary pro forma, during construction and for the first ten operating years of the proposed project, including specific estimates of development and construction costs.

(ii) Proposed development schedule and project phasing, including supportive, technical and logical rationale for such schedule and phasing. [Eff FEB 09 1989] (Auth: HRS §206J-5) (Imp: HRS §§206J-5, 206J-11)

§15-26-46 Selection criteria.

In selecting qualified persons to be the developer-lessee of all or any part of the Aloha Tower complex, the development corporation, through its board, shall be guided by the following criteria:

(1) Qualifications of developer-lessee:

(A) Developer experience:

(i) Major urban projects involving:

a. Hotel developments;

b. Office buildings and complexes;

c. Retail facilities and centers;

d. Recreation/entertainment uses with large public open spaces;

e. Waterfront locations.

(ii) Success of comparable undertakings related to the following:

a. Economic success (high occupancy, high quality tenancies, favorable refinancing experience, etc.);

b. Overall design quality;

c. Successful operation in urban and waterfront settings, with emphasis on quality maintenance.

(iii) Working relationships with and personal contacts with major hotel operators;

(iv) Timeliness of performance;

(v) Demonstrated ability to undertake redevelopment projects and to respond to public objectives.

(B) Management experience of the key use categories:

(i) Success of major projects involving one or more similar uses;

(ii) Experience in operating developments in urban settings;

(iii) Success in achieving high quality project maintenance standards.

(C) Project architecture and design experience:

(i) Major mixed-use projects;

(ii) Waterfront projects;

(iii) Projects in urban settings;

- (iv) Overall architectural and landscape design quality;
- (v) Joint public/private projects.
- (D) Financial capability of developer:
 - (i) Ability to raise equity/debt funds including current relationship with major lenders;
 - (ii) Ability to provide for operation and maintenance;
 - (iii) Resources and tenacity ("staying power").
- (E) Organization/management approach:
 - (i) Clear lines of responsibility within the developer's organization that the development corporation can rely on to be responsive and effective;
 - (ii) Track record in real estate development;
 - (iii) Availability of a full-time representative of the developer in Honolulu during the development of the project.
- (F) Qualifications of key personnel:
 - (i) Qualifications and experience of key persons and entities associated with the developer.
- (G) Other factors as appropriate for specific development information submitted.
- (2) Merits of proposal:
 - (A) Fulfillment of and responsiveness to project objectives as outlined in § 15-26-38 above;
 - (B) Overall strength of development team:
 - (i) Economic and management strength of the developer-lessee and development team and quality of guarantee of land lease rent payable to the development corporation;
 - (ii) Experience of designated architectural consultants in major hotel, mixed-use and waterfront projects in a downtown setting as evidenced by overall architectural and urban design quality in previous projects;
 - (iii) Experience and strength of other key consultants/specialists designated to be part of the development.
 - (C) Project economics:
 - (i) Development feasibility and likelihood of orderly and rapid implementation;
 - (ii) Responsiveness to economic factors affecting key components of the proposal;
 - (iii) Quality of development components.
 - (D) Architectural and design quality:
 - (i) Overall quality of design;
 - (ii) Ability of design concept to reinforce public improvements;
 - (iii) Conformance with development objectives and the design manual;
 - (iv) Imagination and creativity in the organization of components;
 - (v) Appropriateness of image and character.
 - (E) Ability to conform with development schedule:
 - (i) Date of project financing;
 - (ii) Date for start of construction;
 - (iii) Development construction and schedule;
 - (iv) Anticipated date of completion.
- (3) Benefits to State of Hawaii:
 - (A) Project revenue;
 - (B) Tax revenue;
 - (C) Public improvements such as open space, infrastructure and other amenities;
 - (D) Other benefits. [Eff FEB 09 1989] (Auth: HRS §206J-5 (a) (5)) (Imp: HRS §206J-5 (a) (8) & (9), HRS §206J-11))

§15-26-47 Direct negotiation.

Should the development corporation and any joint venturer determine to select a developer-lessee by direct negotiation, the board shall prepare or cause to be prepared a development plan for the Aloha Tower complex which incorporates the needs of the department of transportation and which accommodates the plans, specifications, designs, or estimates of any project the board finds acceptable and advisable to carry out the intent of chapter 206J, HRS.

- (a) In selecting a qualified person to be the developer-lessee of all or any part of the Aloha Tower complex, the development corporation, through its board, shall be guided by the criteria listed in §15-26-46 of these rules. [Eff FEB 09 1989] (Auth: HRS §206J-5 (a) (5)) (Imp: HRS §206J-5 (a) and (b))

§15-26-48 Competitive bidding.

(a) Should the development corporation and any joint venturer determine to select a developer-lessee by competitive bidding, the board and any joint venturer shall prepare or cause to be prepared a development plan for the Aloha Tower complex which incorporates the needs of the department of transportation, and which will implement the intent of chapter 206J, HRS.

(b) The development plan will be prepared in sufficient detail and with the specificity which will enable qualified bidders to submit competitive priced tenders based on definitive requirements. Terms will be set forth generally in the advertisement for sealed tenders.

(c) Notice of the request for bids shall be published not less than three times in the two major Honolulu newspapers. No more than one of these publications shall be made on any one day or on two consecutive days.

(d) Leases will be awarded on the basis of the highest return to the State and joint venturer. [Eff FEB 09 1989] (Auth: HRS §206J-5) (Imp: HRS §§206J- 5, 206J-9, 206J-10, 206J-11)

§§15-26-49 and 15-26-50 (Reserved).

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SUBCHAPTER 6 GENERAL PROVISIONS

§15-26-51 General purposes.

(a) The legislature of the State of Hawaii, by chapter 206J, HRS, established the Aloha Tower complex area. In so doing, the legislature found the following respecting the Aloha Tower complex:

(1) The area in downtown Honolulu on the waterfront, including the Hale Awa Ku Moku Building and Irwin Memorial Park, is one of the most valuable properties in downtown Honolulu and certain portions of this area should be redeveloped, renovated, or improved to better serve the economic, maritime, and recreational needs of the people of Hawaii; and

(2) The Aloha Tower complex still serves a vital maritime function that must be maintained to insure adequacy and viability for existing and future maritime activities.

(b) The legislature authorized and empowered the Aloha Tower development corporation to undertake the redevelopment of the Aloha Tower complex to strengthen the international economic base of the community in trade activities, to enhance the beautification of the waterfront, and in conjunction with the department of transportation, to better serve modern maritime uses, and to provide for public access and use of the waterfront property.

(c) The legislature further authorized and empowered the authority to establish and adopt development rules under chapter 91, HRS, on health, safety, building, planning, zoning, and land use which shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon.

(d) With the support of the legislature, the Governor's office of state planning prepared the Honolulu waterfront master plan which reconfirmed that the Aloha Tower complex should further serve as a stimulant to the commercial activities of the downtown business community and help transform the waterfront into a "people place".

- (e) In accordance with its rules of practice and procedure, the corporation selected a developer for the Aloha Tower project area and entered into lease negotiations with said developer.
- (f) In accordance with the declarations of the legislature, the corporation has caused to be prepared a development plan for the Aloha Tower project area. As an integral part of implementing this plan, and in compliance with the mandate of the legislature, the authority has developed these development rules for the Aloha Tower project area.
- (g) It is the intent of the authority that these rules shall be established and adopted to implement the purposes and intent of the legislature as set forth in chapter 206J, HRS. It is the further intent of the authority that these rules shall implement the policies and programs relating to the Aloha Tower project area as set forth in the provisions of the plan.
- (h) So that the Aloha Tower project area can be developed as an attractive and desirable urban waterfront project, the corporation shall interpret these rules to encourage flexibility of design. [Eff FEB 21 1992] (Auth: HRS §§206J-1, 206J-7, 206J-4) (Imp: HRS §§206J-2, 206J-7)

§15-26-52 Development guidelines.

The development guidelines governing the corporation's actions in the Aloha Tower complex area have been set forth in subchapter 4 of the corporation's rules of practice and procedure and the findings and recommendations of the Honolulu waterfront master plan. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-5)

§15-26-53 Title.

These rules shall be known and may be cited as the Aloha Tower complex rules for the Aloha Tower project area. [Eff FEB 21 1992] (Auth: HRS §§ 206J-7) (Imp: HRS §§206J-7)

§15-26-54 Plan incorporated by reference.

The Aloha Tower project area plan, is hereby incorporated by reference and made a part of this chapter. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-5)

§15-26-55 Definitions.

Except as otherwise stated in this chapter, all of the definitions contained in the land use ordinance of the city and county of Honolulu are by reference incorporated herein and made a part hereof. As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

"Aloha Tower complex" means the entire area under the jurisdiction of the Aloha Tower development corporation as designated by the Legislature under section 206J-3, HRS;

"Aloha Tower project area" means that portion of the Aloha Tower complex covered by the development plan and these rules;

"Building height" means the vertical distance measured from the existing grade of the nearest public street to the top of the roof slab, parapet wall or ridge line of the subject building except as provided in Section 15-26-112 of these rules.

"Corporation" or "development corporation" means the Aloha Tower development corporation established by section 206.1-4, HRS;

"Development" means the construction of a new building or other structure on a development lot, the relocation of an existing building on another development lot, or the use of a tract of land for a new use, or the enlargement of an existing building or use, or the renovation or restoration of an existing building or use;

"Development lot" means any lot or a combination of lots developed in accordance with the provisions of these rules;

"Development plan" means the development plan for the Aloha Tower project area;

"Executive officer" means the executive officer of the corporation;

"Floor area" means the total area of all floors of a building measured from the exterior faces of the exterior walls or from the center line of party walls separating portions of a building excluding unroofed areas, interior elevator and mechanical shafts and stairways. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the

roof or floor above, excluding arcades, cantilevered floors and non-structural overhangs. Also excluded from the floor area are parking facilities and loading spaces, including their driveways and access ways, lanais or balconies of dwelling or lodging units which do not exceed 15 per cent of the total floor area of the unit to which they are appurtenant, non-habitable attic areas, and rooftop machinery equipment rooms and elevator housings on the top of buildings;

"Floor area ratio" or "(FAR)" means the ratio of floor area to land area expressed as a per cent or decimal which shall be determined by dividing the total floor area on a development lot by the lot area of that development lot;

"Hawaii capital district" means a special district established by Article 7 of the land use ordinance;

"Land use ordinance" or "LUO" means the Land Use Ordinance adopted by Ordinance No. 8696 of the city and county of Honolulu;

"Land use zone" means any zone delineated on the land use plan maps of the Aloha Tower project area and described in subchapter 7 of these rules;

"Lot" means a parcel of land which can be used, developed or built upon;

"Nonconforming use" means an activity using land, buildings, signs, or structures for purposes which were legally established within the area prior to adoption of the development plan but would not be permitted as a new use in any of the land use zones established by this chapter;

"Preservation" means keeping a particular facility in its present condition. The facility may already be in a restored or rehabilitated condition;

"Project" means an undertaking of work or improvement of public or private real or personal property or any interest therein, developed, acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by the development corporation, by itself or in conjunction with qualified persons, and including public facilities and, any law to the contrary notwithstanding, facilities for and functionally related and subordinate to maritime purposes.

"Project area" means the Aloha Tower project area as defined in section 15-26-57(b) of these rules;

"Protection" means undertaking actions or applying measures which will prevent the facility from deterioration or loss or which will keep it from being destroyed or abused;

"Public improvement" means any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide public needs as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services;

"Public project" means any project or activity of any county or agency of the state conducted to fulfill a governmental function for public benefit and in accordance with public policy;

"Reconstruction" means the reproduction by new construction of a building, structure, object or parts thereof as it originally appeared;

"Reflective surface" means any glass or other surface, such as polished metal, specified in the manufacturer's literature having reflectance (designated by such terminology as average daylight reflectance, visible light reflectance, visible outdoor reflectance, and comparable terms) of over thirty per cent;

"Rehabilitation" means returning a facility to a useful state, thus allowing it to be used while preserving those portions or features considered historically, architecturally, or culturally significant;

"Restoration" means recovering accurately the authentic form and details of a facility, or a structure and its setting, usually by renovating a later work, or replacing missing earlier work. [Eff. FEB 21 1992]

(Auth: HRS §§206J-2, 206J-3, 206J-5, 206J-7) (Imp: HRS §§206J-2, 206J-3, 206J-5, 206J-7)

§15-26-56 Rules for construction of language.

The following rules of construction apply to the text of this chapter.

(1) The particular shall control the general;

(2) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, map, summary table, or illustrative table, the text shall control;

(3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive;

(4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary;

(5) A "building" or "structure" includes any part thereof;

- (6) The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for";
- (7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity;
- (8) Unless the context clearly indicates the contrary, where a rule involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:
- (A) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
- (B) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- (C) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination;
- (9) The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of kind or character. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-7)

§15-26-57 Establishment of the Aloha Tower complex and the Aloha Tower project area.

- (a) The Aloha Tower complex area was established by the legislature in 1981. As originally delineated, the complex included primarily that area makai of Nimitz Highway between piers 8 and 11. Subsequent legislatures have amended the boundaries to include piers 5 through 23 and portions of Iwilei makai of Iwilei Road as shown on the exhibit entitled "Aloha Tower Complex and Aloha Tower Project Area Boundaries" dated September 1990 at the end of these rules.
- (b) The Aloha Tower project area is that portion of the Aloha Tower complex which has been designated for the first phase of redevelopment by the Aloha Tower development corporation. The boundaries of this project area extend from piers 5 through 14 on the makai side of Nimitz Highway excluding TMK parcel 2-1-14:6 (Hawaiian Electric) as shown on the exhibit entitled "Aloha Tower Complex and Aloha Tower Project Area Boundaries" dated September 1990 at the end of these rules. An official survey map of the project area dated July 23, 1990 is on file at the corporation's office. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-2, 206J-3, 206J-5)

§15-26-58 Establishment and scope of controls.

- (a) In harmony with the purpose and intent of chapter 206J, HRS, these rules are established by the Aloha Tower development corporation for the project area controlling, regulating, and determining the height of buildings; minimum setbacks; required open spaces; the density of buildings; the location and amount of retail, office, hotel, residential, maritime, park, cultural, and other appropriate uses; the location of buildings and other structures; architectural design; urban design; historic and cultural sites; circulation criteria; and other appropriate regulations relating to land use, zoning, and planning for buildings and structures for all properties within the Aloha Tower project area.
- (b) This chapter, together with the development plan for the Aloha Tower project area shall govern all developments and use of properties within the project area. In case of any discrepancy between the provisions of this chapter and the development plan, this chapter shall control. No building permit shall be issued for any development within the project area unless the development conforms to the provisions of the development plan and this chapter.
- (d) No public improvement or project within the project area shall be initiated or adopted unless it conforms to and implements the development plan and this chapter.
- (e) Except as otherwise specifically provided, the provisions of this chapter shall supersede the provisions of the city and county of Honolulu's development plan (Ordinance No. 8179, as amended), the provisions of the Hawaii Capitol District Ordinance (Article 7, land use ordinance), and the provisions of the land use ordinance (Ordinance 86-96, as amended) as they all shall relate to properties within the project area. The foregoing ordinances are hereby declared to be inconsistent with this chapter, and shall therefore be inapplicable to development within the project area unless otherwise specifically stated.
- (f) All agencies of the city and state governments shall perform their duties, functions, and powers which affect the project area in accordance with the provisions of the development plan and this chapter.
- (g) The development corporation shall not exercise any jurisdiction over any replacement facilities located

within the Aloha Tower complex required for necessary maritime purposes and activities. Jurisdiction over such replacement facilities shall remain in the department of transportation, state of Hawaii. The department of transportation shall not be subject to these rules. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-7, 206J-10, 206J-1)

§15-26-59 Project eligibility review.

- (a) The executive officer may require, at his discretion, prior to receipt of any application for a development permit, a project eligibility review of the development project to consider the project concept and its impact on infrastructure facilities such as streets, pedestrian and bicycle circulation, sanitary sewers, drainage and water, and to improve efficiency and avoid unnecessary delays and expense in processing the formal development application. If the executive officer determines that project eligibility review is required, no development application shall be considered until such review has been completed.
- (b) To conduct project eligibility review, the applicant shall provide such information as the executive officer may request in his discretion, including without limitation, the proposed site plan, basic messing, floor area allocation and location of proposed uses, off. street parking and loading, pedestrian and vehicular circulation, and location of existing and proposed improvements and utilities.
- (c) To the extent possible, project eligibility review shall be completed within thirty days of the executive officer's determination to require the review.
- (d) Development shall not be approved unless adequate infrastructure facilities are or will be made available to service the proposed development prior to occupancy. The executive officer may consult with applicable governmental agencies regarding the adequacy of infrastructure requirements. Any development approval may be subject to such conditions as the corporation may impose under these rules, including without limitation, the requirement that the concerns and requirements of appropriate governmental agencies relative to the adequacy of infrastructure facilities for the proposed development are satisfied.
- (e) Notwithstanding a requirement for a project eligibility review, potential applicants may seek preliminary review of their proposed developments with the executive officer prior to submitting an application for a development permit.
- (f) Approval of construction plans by ATDC shall constitute a determination that the project has met the project eligibility review requirements herein. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-10, 206J-1, 91-2, 206J-5)

§15-26-60 Requirement of development permit.

- (a) A building permit shall not be issued for any development within the Aloha Tower project area until the developer has obtained from the corporation a development permit certifying that the development complies with this chapter and the development plan.
- (b) An application to the corporation for a development permit shall include complete, detailed information showing that the development complies with all of the provisions of this chapter and the development plan. The corporation may determine the nature and extent of the information required in the application.
- (c) Prior to submission of an application to the development corporation which impacts or affects the operations or maritime facilities of the department of transportation (DOT), State of Hawaii, the executive officer shall require that the applicant show that it has notified the DOT of its request and that it has consulted with the DOT in regard thereto and taken into account the DOT's needs and requirements. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-5)

§15-26-61 Administration.

The corporation, through its executive officer, shall administer the provisions of this chapter. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-4, 206J-7)

§15-26-62 Appeals.

- (a) The corporation shall hear and determine appeals from the actions of the executive officer in the administration of this chapter. An appeal shall be sustained only if the corporation finds that the executive officer's action was based on an erroneous finding of a material fact, or that the executive officer had acted

in an arbitrary or capricious manner or had manifestly abused his discretion.

(b) All appeals and appeal procedures shall comply with the provisions of subchapter 7 of chapter 1516, Hawaii Administrative Rules. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§91-2, 206J-5, 206J-7)

§15-26-63 Variances.

(a) The corporation shall hear and determine petitions for varying the application of this chapter with respect to a specific parcel of land and building, and may grant a variance based on unnecessary hardship if the record shows that:

(1) The applicant would be deprived of the reasonable use of land or building if it were used only for the purpose allowed in that zone;

(2) The request of the applicant is due to unique circumstances and not the general conditions in the area, so that the reasonableness of the zoning is not drawn into question; and

(3) The use sought to be authorized by the variance will not alter the essential character of the area nor be contrary to the intent and purpose of this chapter or the development plan.

(b) The corporation shall specify the particular evidence which supports the granting of a variance. The corporation may impose reasonable conditions in granting a variance.

(c) Prior to making a determination on a variance application, the corporation shall hold a public hearing. The public hearing shall afford interested persons a reasonable opportunity to be heard.

(d) The application for variance shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency.

(e) Any variance granted under the provisions of this section shall automatically terminate if a development permit for a development requiring said variance has not been issued within two years from the date of granting the variance. This time limit may be extended for a period not to exceed two years, on the corporation's approval of the applicant's request and justification in writing for an extension, provided the request and justification are received by the corporation at least one hundred days in advance of the automatic termination date of the variance and there are no material changes in circumstances which may be cause for denial of the extension. Prior to making a determination on a request for extension, the corporation shall hold a public hearing. The request for extension shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency. All requests for variances and the applicable requirements and procedures thereto shall comply with subchapter 5 of chapter 15-16, Hawaii Administrative Rules. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-5, 206J-7)

§15-26-64 Nonconformities.

(a) Except as otherwise provided, nonconforming uses of land and structures, and nonconforming lots, structures, parking and loading within the project area may be continued subject to the provisions hereinafter specified.

(b) Nonconforming use of land shall not:

(1) Be enlarged, increased or extended to occupy a greater area of land than was occupied on January 1, 1991;

(2) Continue if it ceases for any reason (except where government action impedes access to the premises) for a period of more than six consecutive months or for twelve months during any three-year period; or

(3) Be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use on January 1, 1991;

(c) The following arc rules with respect to nonconforming uses of structure:

(1) Nonconforming use of structure shall not extend to any part of the structure which was not manifestly arranged or designed for the use there on January 1, 1991; and a nonconforming use shall not be extended to occupy any land outside the structure. The structure shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered;

(2) Nonconforming use of structure shall not continue if it is discontinued for twelve consecutive months or for eighteen months during any three year period;

(3) If structural alterations are not made, any nonconforming use of a structure, or structure and premises in combination, may be changed to another nonconforming use of the same nature, or to a more restricted use, or to a conforming use; provided that change to a more restricted use or to another nonconforming use may be made only if the relation of the structure to the surrounding facility is such that adverse effects on occupants and neighboring facility will not be greater than if the original nonconforming use continued;

(4) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten per cent of the current replacement value of the building;

(5) Nothing contained in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of that official.

(d) The following are rules with respect to nonconforming structures:

(1) A nonconforming structure may be continued as long as it remains otherwise lawful.

(2) A nonconforming structure may be altered in any way which does not increase its nonconformity.

(3) If a nonconforming structure is destroyed by any means to an extent of more than fifty per cent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of these rules.

(A) Except as otherwise provided herein, no nonconforming structure that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the provisions of this chapter.

(4) If a nonconforming structure is moved for any reason, it shall thereafter conform to the applicable rules of this chapter after it is moved.

(e) Nonconforming parking and loading may be continued, subject to the following provisions:

(1) If there is a change in use which has a greater parking or loading requirement than the former use, additional parking and loading shall be required and shall not be less than the difference between the requirements for the former use and the proposed use.

(2) Off-street parking and loading requirements of this chapter shall be satisfied for additional floor area constructed. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7, 206J-1) (Imp: HRS §§206J-1, 206J-5, 206J-7)

§15-26-65 Application fees.

(a) All fees required pursuant to the provisions of this chapter shall be paid upon application. Application fees are not refundable. If a joint hearing is held for more than one permit requiring a public hearing for a single development project, only one public hearing fee shall be charged.

(b) Government agencies shall be exempt from all fees required by this chapter. [Eff FEB 21 1992] (Auth: HRS §§206J-1, 206J-5, 206J-7) (Imp: HRS §§ 206J-1, 206J-5, 206J-7)

§15-26-66 Violations.

The corporation may maintain an action for an injunction to restrain any violation of this chapter or the development plan, and may take any other lawful action to prevent or remedy any violation. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7, 206J-1) (Imp: HRS §§206J-1, 206J-5, 206J-7)

§15-26-67 Amendments.

This chapter may be amended pursuant to chapter 91, HRS, as may be necessary. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-7)

§15-26-68 Severability.

(a) If a court of competent jurisdiction finds any provision or provisions of this chapter to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of these rules shall continue to be separately and fully effective.

(b) If a court of competent jurisdiction finds the application of any provision or provisions of this chapter

to any zoning lot, building or other structure, or tract of land to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to the person, facility, or situation immediately involved in the controversy, and the application of any such provision to other persons, facility, or situations shall not be affected. [Eff FEB 21 1992] (Auth: HRS §§206J-7) (Imp: HRS §§206J-7)

§15-26-69 to §15-26-79 (Reserved)

SUBCHAPTER 7 LAND USE ZONE RULES

§15-26-80 Establishment of land use zones.

Within the project area, there are hereby established the following land use zones:

- (1) Maritime (M) zone;
- (2) Commercial (C) zone;
- (3) Hotel/Office/Residential (H/O/R) zone;
- (4) Park (P) zone; and
- (5) Residential/Office (R/O) zone.

The boundaries for each zone are set forth in the exhibit entitled "Land Use Zones", dated April 1991, at the end of these rules. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-5)

§15-26-81 M zone: purpose and intent.

The maritime zone (M) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (1) To meet the needs of the state's maritime industry, and in particular, to serve as the primary center for cruise ship operations on Oahu;
- (2) To help meet the need for office space in downtown Honolulu with emphasis on maritime related office uses. [Eff FEB 21 1992] (Auth: HRS §§ 206J-7, 206J-5) (Imp: HRS §§206J-5, 206J-1)

§15-26-82 M zone: use rules.

Within the maritime zone (M), the following uses and structures shall be permitted:

- (1) Maritime uses:
 - (A) Piers, wharves and docks;
 - (B) Terminals for passengers arriving or departing by ship, ferry day/dinner cruise boat or water taxi;
 - (C) Transient berthing facilities;
 - (D) Sales offices for commercial maritime operations;
 - (E) Maritime fueling facilities;
 - (F) Short-term cargo and supply storage facilities;
 - (G) Government offices for federal and state maritime related operations;
- (2) Commercial uses:
 - (A) Offices, with emphasis given to users with maritime interests;
 - (B) Eating and drinking establishments;
 - (C) Retail shops catering to cruise ship passengers and office workers within the maritime complex;
 - (D) Car rental and ground tour operations;
 - (E) Financial services, travel agencies, passport photo studios, and other services which cater to traveler needs;
 - (F) Private recreation and athletic clubs;
- (3) Public uses:
 - (A) Mini-parks, plazas, promenades and other public open spaces;
 - (B) Public streets.
- (4) Uses and structures which are customarily accessory and clearly incidental and subordinate to principal uses and structures including parking, security and utility installations. [Eff FEB 21 1992] (Auth: HRS §§ 206J-7, 205J-5) (Imp: HRS §§206J-5, 206J-1)

§15-26-83 M zone: development requirements.

Within the maritime zone (M), the following development requirements shall apply:

(1) Floor areas:

(A) Maritime terminal facilities: 155,000 gross square feet, or such lesser area as the Department of Transportation, State of Hawaii, shall require, of facilities for maritime uses located on the first two levels of the terminal structure.

(B) Office uses: A maximum of 385,000 gross square feet for both government and private offices located above the maritime terminal facilities;

(C) Retail uses: A maximum of 30,000 gross square feet located on the first two levels of the terminal structure;

(2) Parking:

(A) A minimum of 600 parking spaces (including 189 reserved for state office users);

(3) Building heights:

(A) Buildings within 200 feet of the makai boundary of Ala Moana Boulevard shall not exceed 120 feet, and buildings within the remaining area shall not exceed 100 feet. [Eff FEB 21 1992] (Auth: HRS §§206J-7, 206J-5) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-84 C zone: purpose and intent.

The commercial zone (c) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

(1) To promote an environment where retail commercial uses will coexist compatibly alongside maritime uses;

(2) To create a vibrant, attractive retail commercial "people place" which will attract downtown workers, local residents and island visitors during daytime and evening hours;

(3) To protect, enhance and restore the historic Aloha Tower structure as the dominant feature in the zone. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-85 C zone: use rules.

Within commercial zone (c), the following uses and structures shall be permitted:

(1) Commercial uses:

(A) Food markets, stores, delicatessens, bakeries;

(B) Drug stores;

(C) Liquor stores;

(D) General merchandise and variety stores;

(E) Apparel and accessories;

(F) Eating and drinking establishments;

(G) Specialty retail establishments including those on movable carts;

(H) Banks and financial institutions, insurance and real estate offices;

(I) Personal and professional service establishments;

(J) Theaters, museums, art galleries, libraries, and historical sites;

(K) Commercial entertainment and recreation facilities (indoor and outdoor);

(L) Offices, professional offices, travel agencies, and other office uses;

(M) Private recreation and athletic clubs.

(2) Maritime uses:

(A) Piers, wharves and docks;

(B) Terminals for passengers arriving or departing by ship, ferry, day/dinner cruise boat or water taxi;

(C) Transient berthing facilities;

(D) Sales offices for commercial maritime operations;

(3) Public uses:

(A) Plazas, promenades and other public open spaces;

(B) Public streets;

(4) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures, including parking, security and utility installations. [Eff FEB 21 1992]

(Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-86 C zone: development requirements.

Within the commercial zone (c), the following development requirements shall apply:.

(1) Floor areas:

(A) Retail uses: A maximum of 300,000 gross square feet located on the lower three floors of a commercial "marketplace" structure;

(B) Office uses: A maximum of 160,000 gross square feet located on the third and fourth floors of the "marketplace" structure;

(2) Parking:

(A) A portion of the not less than 2,000 total parking spaces located above and/or below grade in the C and H/O/R zones and below grade in the P zones;

(3) Building heights:

(A) Buildings in the C zone shall not exceed 90 feet. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-87 H/O/R zone: purpose and intent.

The hotel/office/residential zone (H/O/R) established by this chapter is designed to promote and protect the public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

(1) To meet the needs of the state's maritime industry, and in particular, to serve the terminal needs for large international cruise ships;

(2) To provide overnight accommodations and services for neighbor island and out-of-state visitors in close proximity to the downtown business and civic center activities;

(3) To help meet the need for high quality office space in downtown Honolulu;

(4) To provide housing in close proximity to the downtown workplace, thus reducing the residents' dependency on vehicular transportation; and/or

(5) To provide revenues in excess of those required to develop the uses in this zone in order to provide the maritime and public uses within the Aloha Tower project at no financial cost to the general public. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-88 H/O/R zone: use rules.

Within the hotel/office/residential zone (H/O/R), the following uses and structures shall be permitted:

(1) Maritime uses:

(A) Piers, wharves and docks;

(B) Terminals for passengers arriving or departing by ship, ferry, day/dinner cruise boat or water taxi;

(C) Transient berthing facilities;

(D) Sales offices for commercial maritime operations;

(E) Maritime fueling facilities;

(F) Short-term cargo and supply storage facilities;

(G) Government offices for federal and state maritime related operations.

(2) Commercial uses:

(A) Hotels, including condominium hotels, and related services including food and beverage, retail, recreational and business service facilities; conversion to residential or office condominium units will be permitted after five years of hotel operations;

(B) Offices;

(C) Financial institutions and services;

(D) Eating and drinking establishments;

(E) Professional and personal service establishments;

(F) Specialty retail establishments catering to cruise ship passengers and office workers within the complex;

(G) Car rental and ground tour operations;

(H) Fairs, markets, exhibitions and social functions when not conflicting with maritime operations.

(3) Residential uses:

(A) Apartments, including condominium apartments;

(B) Private recreational facilities, common lounges and residential manager's office/apartment;

(C) Commercial support facilities including restaurants, personal service establishments, etc.

(4) Public uses:

(A) Plazas, promenades and other public open spaces;

(B) Public streets.

(5) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal use and structures, including parking, security and utility installations. [Eff FEB 21 1992]

(Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-89 H/O/R zone: development requirements.

Within the hotel/office/residential zone (H/O/R), the following development requirements shall apply:

(1) Floor areas/units:

(A) Maritime terminal facilities: 101,000 gross square feet, or such lesser area as the Department of Transportation, State of Hawaii, shall require, located on the first two levels of the complex at piers 10 and 11;

(B) Hotel uses: A minimum of 109 hotel suites to a maximum of 350 guest rooms located above and/or adjacent to the maritime terminal facilities; conversion to residential or office condominium units will be permitted after five years of hotel operations;

(C) Retail uses: A maximum of 40,000 gross square feet excluding hotel or office related shops and services;

(D) Office/residential uses: A cumulative maximum of 550,000 gross square feet (excluding future hotel conversion units).

(2) Parking:

(A) A portion of the not less than 2,000 total parking spaces located above and/or below grade in the C and H/O/R zones and below grade in the P zones.

(3) Building heights (areas shown on exhibit entitled Aloha Tower Project Area/Land Use Zones at the end of these rules):

(A) Makai areas: Structures within 120 feet of the pier face shall not exceed 120 feet, and structures within the remaining area shall not exceed 105 feet.

(B) Mauka areas: A single tower structure shall be permitted, not to exceed 400 feet. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§ 206J-1, 206J-5, 206J-6)

§15-26-90 P zone: purpose and intent.

The park zone (P) established by this chapter is designed to promote and protect the public health, safety and general welfare. These goals include, among others, the following specific purposes:

(1) To provide much needed improved public open space for passive recreational activities in the downtown and waterfront areas;

(2) To protect, enhance and restore the historically significant features in the zone which are important links to past eras in the waterfront area. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-91 P zone: use rules.

Within park zone (P), the following uses and structures shall be permitted:

(1) Public uses;

(A) Parks, plazas, promenades and other public open spaces;

(B) Historic structures, museums and interpretive displays;

(C) Pavilions, bandstands, gazebos and other open-air structures for performing and entertaining;

(D) Underground parking facilities and access ways thereto;

(E) Public restrooms;

(F) Piers and landings for use by small boats and water taxis.

(2) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures including parking, security and utility installations. [Eff FEB 21 1992]

(Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-92 P zone: development requirements.

Within the park zone (P), the following development requirements shall apply:

(1) Parking:

(A) A portion of the not less than 2,000 total parking spaces located above and/or below grade in the C and H/O/R zones and below grade in the P zones;

(2) Building heights:

(A) No structure within the P zone shall exceed 30 feet. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-93 R/O zone: purpose and intent.

The residential/office zone (R/O) established by this chapter is designed to promote and protect the public health, safety and general welfare. These goals include, among others, the following specific purposes:

(1) To provide housing in close proximity to the downtown workplace, thus reducing the residents' dependency on vehicular transportation;

(2) To help meet the need for high quality office space in downtown Honolulu;

(3) To provide revenues in excess of those required to develop the uses in this zone in order to provide the maritime and public uses within the Aloha Tower project at no financial cost to the general public; and/or

(4) To maintain the use of Honolulu's limited harbor space for maritime operations. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§ 206J-1, 206J-5, 206J-6)

§15-26-94 R/O zone: use rules.

Within the residential/office zone (R/O), the following uses and structures shall be permitted:

(1) Maritime uses:

(A) Piers, wharfs and docks;

(B) Ferry and water taxi berthing, servicing, light maintenance and administrative operations;

(C) Transient berthing facilities.

(2) Commercial uses:

(A) Offices;

(B) Financial institutions and service;

(C) Eating and drinking establishments;

(D) Professional and personal service establishments;

(3) Residential uses:

(A) Condominium apartments;

(B) Private recreational facilities, common lounges and residential manager's office/apartment;

(C) Commercial support facilities including restaurants, personal service establishments, etc.

(4) Public uses:

(A) Pedestrian promenades.

(5) Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal uses and structures including parking, security and utility installations. [Eff FEB 21 1992]

(Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-95 R/O zone: development requirements.

Within the residential/office zone (R/O), the following development requirements shall apply:

(1) Floor areas/units:

(A) The cumulative floor area for all residential and/or commercial uses shall not exceed 1,353,000 square feet in the towers and 47,000 square feet in the base;

(B) The maximum floor area of any floor of any tower shall not exceed 16,500 square feet;

(C) A maximum of 350 condominium apartment units shall be permitted;

(2) Parking:

(A) Commercial uses: A minimum of one stall per 600 square feet of floor area;

(B) Residential uses: A minimum of 1.4 stalls per unit;

(C) At least 50 percent of all parking shall be located on-site and any remainder will be provided within 750 feet of the zone boundaries;

(D) Any parking to be located above grade shall be screened from landside and waterside viewing in a manner which is architecturally consistent with the overall project design.

(3) Building heights:

(A) Two tower structures shall be permitted, not to exceed 400 feet. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J- 6)

§15-26-96 Subdivision and consolidation.

The subdivision or consolidation of land within any land use zone shall be processed and approved by the city and county of Honolulu. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-5)

§15-26-97 to §15-26-109 (Reserved)

§15-26-110 Additional development requirements.

In addition to the requirements of the respective land use zones specified in this subchapter, the development requirements of subchapter 8 relating to any development, irrespective of the land use zone in which it is located, shall be applicable unless specifically provided otherwise. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J- 6)

SUBCHAPTER 8 GENERAL DEVELOPMENT REQUIREMENTS

§15-26-111 Purpose and intent.

The purpose of this subchapter is to set forth standards relating to development which are generally applicable to any use or site, irrespective of the land use zone in which it is located. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-112 Heights.

The following building elements or features may exceed the height limits prescribed in subchapter 7:

- (1) Structures housing or screening necessary mechanical appurtenances of the building on which they are erected;
- (2) Necessary utilitarian features including stairwell enclosures, safety railings, ventilators, and skylights;
- (3) Decorative or recreational features, including cornices, rooftop gardens, planter boxes, flag poles, spires, cupolas, or ornamental towers;
- (4) Roof-mounted radio or television mast antennae and roof-mounted dish antennae; and
- (5) Energy-saving devices, including heat pumps and solar collectors. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J- 6)

§15-26-113 Yards.

(a) The minimum front yard requirements shall be as follows:

- (1) A front yard of ten feet in depth measured perpendicularly from the street boundary line shall be provided for each development parcel.

(2) Every yard bounded by a public street shall be a front yard.

(b) There shall be no minimum side and rear yard requirements.

(c) Permitted uses within all front yards include:

- (1) Buildings, or portions thereof, provided there is a minimum of 15 feet of public sidewalk between the structure and the curb of the adjacent street;
- (2) Outdoor dining areas which are covered with umbrellas, awnings or trellises but remain open on the sides during business hours;
- (3) Porte cocheres;
- (4) Customary yard accessories;
- (5) Dispensers for newspaper sales and distribution;
- (6) Fences and retaining walls as provided in subsection (d) below,
- (7) Public utility facilities not exceeding six feet in height from existing grade and screened with landscaping;
- (8) Bus stop shelters;
- (9) Upper-level pedestrian-ways approved by the corporation; and
- (10) Other structures under thirty inches.

(d) Retaining walls within required front yards shall not exceed a height of thirty inches. A safety railing or fence may be erected on top of the retaining wall. The safety railing shall not be capable of retaining earth or exceed forty-two inches above the finish grade of the fill on the inside of the retaining wall.

(e) Except as specifically provided otherwise, roof overhangs, caves, sunshades, sills, frames, beam ends, projecting courses, planters, awnings, and other architectural embellishments or appendages with less than a thirty-inch vertical thickness may project no more than four feet into the required distance of a yard or setback. Exterior balconies, lanais, arcades, or covered passageways are not permitted within required front yards.

(f) Parking and loading including any related maneuvering area or aisle shall not be allowed in any front yard or area except for short-term parking and loading in conjunction with porte cochere activities. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-114 Off-street parking.

(a) The minimum number of required off-street parking spaces for the Aloha Tower project area shall be as specified in subchapter 7.

(b) At least sixty per cent of required parking shall be standard sized parking spaces and forty per cent may be compact spaces, except that residential dwelling and hotel units may have fifty per cent compact spaces.

(c) The following are general standards for parking lots or areas:

(1) All parking and drive areas shall be provided and maintained with an all-weather surface;

(2) All parking areas shall be illuminated in such a manner that all light sources are shielded from the direct view of adjacent developments;

(3) Ingress and egress aisles shall be provided to a street and between parking bays. In addition, minimum aisle widths for parking bays, except mechanical parking areas, shall be provided in accordance with the following table:

(4) All parking areas shall be designed or arranged in a manner that no maneuvering into any street, alley or walkway is necessary in order for a vehicle to enter or leave the parking space, and which allows all vehicles to enter the street in a forward manner;

(5) All developments shall provide parking areas located within a structure. Parking structures shall contain a roof and walls on all sides, and said walls shall screen parked vehicles.

(d) The following are general standards for parking spaces:

(1) All spaces shall be individually marked if more than four spaces are required. Compact spaces shall be labeled 'compact only';

(2) All spaces shall be unobstructed, provided a building column may extend a maximum total of six inches into the sides of the parking space. A wall is not considered a building column;

(3) Standard-sized parking spaces shall be nineteen feet in length and eight and one-half feet in width;

(4) Compact spaces shall be sixteen feet in length and seven and one-half feet in width;

(5) All spaces shall be so arranged that any automobile may be moved without moving another, except that tandem parking shall be permissible in instances where the parking spaces are used for employee parking, where all parking is performed by an attendant at all times, or for public assembly facilities and temporary events, including activities where user arrivals and departures are simultaneous and parking is attendant directed;

(6) Clearance height in all garages shall be a minimum of 6'-6".

(e) Off-site parking facilities or spaces may be permitted in the corporation's sole discretion, provided that:

(1) The corporation finds that:

(A) Such off-site parking would provide flexibility and result in a development that is practically and aesthetically superior to that which could be accomplished with the rigid enforcement of this chapter;

(B) The resulting development would not adversely affect adjacent developments or uses; and

(C) The resulting development will be consistent with the intent of the project plan;

(2) The parking facility is located within or adjacent to the project area; and

(3) A written agreement satisfactory to the corporation is executed stipulating that the required number of

off-site parking spaces shall be available to the proposed use. Said agreement shall provide that of the amount of parking spaces is not maintained, or space acceptable to the executive officer substituted, the use, or such portion of the use as is deficient in number of parking spaces, shall be discontinued. No change in use or new construction shall be permitted which increases the requirements for off-street parking unless such additional space is provided. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-115 Off-street loading.

(a) Buildings shall provide off-street loading spaces for the area proposed to be constructed as follows:

- (1) Maritime (M) zone: A minimum of five spaces;
- (2) Commercial (c) and Hotel/Office/Residential (H/O/R) zones: A cumulative minimum of six spaces;
- (3) Park (P) zone: No spaces required; and
- (4) Residential/Office (R/O) zone: A minimum of three spaces.

(b) Loading space required under this section shall not be in any street or alley, but shall be provided within the building or on the lot. The following standards shall also apply to loading spaces:

- (1) The minimum horizontal dimensions of at least half of the required spaces shall be 12 x 35 feet and have a vertical clearance of at least fourteen feet. The balance of the required spaces in any zone shall have horizontal dimensions of at least 19 x 8-1/2 feet and vertical clearance of at least ten feet;
- (2) Each loading space shall be unobstructed and shall be arranged so that any vehicle may be moved without moving the other;
- (3) Adequate maneuvering areas and access to a street shall be provided and shall have a vertical clearance not less than the applicable height for the loading space;
- (4) All loading spaces and maneuvering areas shall be paved with an all-weather surface;
- (5) Where loading areas are illuminated, all sources of illumination shall be shielded to prevent any direct reflection toward adjacent premises;
- (6) Loading spaces for three or more vehicles shall be arranged so that no maneuvering to enter or leave a loading space shall be on any public street, alley or walkway;
- (7) Each required loading space shall be identified as such and shall be reserved for loading purposes;
- (8) No loading space shall occupy required off-street parking spaces or restrict access; and
- (9) No loading space or maneuvering area shall be located within a required yard. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-116 Signs.

Except as otherwise provided, signs shall conform to the "B2 Community Business District" sign regulations of the land use ordinance of the city and county of Honolulu. The corporation shall be responsible for enforcement of the ordinance's provisions, and shall also administer appeals and variances relating to signs. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-117 Architectural criteria.

- (a) All rooftop mechanical appurtenance's, stairwells and elevator enclosures, ventilators, and air-conditioning equipment shall be screened from view by architectural or landscape treatments.
- (b) Parking structures shall not be visible from adjacent streets. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-118 Circulation.

The approval of the executive officer or corporation shall be required on any addition, deletion, modification or alteration of existing streets shown on the project area plan. The executive officer or corporation may consult with other appropriate governmental agencies prior to said approval. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-119 Utilities required to be underground.

Public utility companies (including HECO, HECO and CATV companies) shall place utility lines underground within the project area. The location of all utility structures placed on pads shall be subject to the executive officer's approval. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1,

206J-5, 206J-6)

§15-26-120 Performance standards.

(a) Where a building wall contains a reflective surface for more than thirty per cent of the surface area of the wall, diagrams, charts and other documents shall be submitted to the executive officer which clearly indicate the impact of the reflection from the wall on any street within 1,000 feet of the reflective wall during the two daily periods of 6:30 a.m. to 8:00 a.m., and 3:30 p.m. to 6:00 p.m. throughout the year. Denial or modification of the project may be made where adverse reflection can be shown.

(b) Every use shall be so operated that it does not emit a dangerous degree of odor or fumes.

(c) Any provision in this chapter to the contrary notwithstanding, the rules of the state department of health shall continue to apply to all activities and properties within the project area. These rules shall include, but not be limited to, department of health, chapter 11-43 relating to community noise control for Oahu, chapter 11-11 relating to sanitation, chapter 11-14 relating to housing, chapter 11-34 relating to poisons, chapter 11-39 relating to air conditioning and ventilation, chapter 11-42 relating to vehicular noise control, chapter 11-55 relating to water pollution, chapter 11-58 relating to solid waste management control, chapter 11-59 relating to ambient air quality standards, and chapter 11-60 relating to air pollution. [Eff FEB 21 1992] (Auth: §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-121 Temporary uses.

Temporary structures, such as tents and booths, may be permitted in any zone for periods not exceeding fourteen days, provided that for good reasons, the executive officer, in his sole discretion, may grant extensions for an additional fourteen day. [Eff FEB 21 1992] (Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-122 Conditional use of vacant land.

The executive officer, in his sole discretion, may allow a conditional use of vacant land, provided:

(1) The proposed use is any use permitted within the land use zone except:

(A) That open or uncovered temporary parking at grade may be permitted in all land use zones, and

(B) Construction sites, special trade construction and storage yards, and nonextensive yard uses may be permitted in all land use zones where a six-foot screening wall or fence is erected along all public rights-of-way.

(2) The duration of the use is for a two-year period, provided that the executive officer may issue additional extensions of up to two years each if the development status of the area has not changed appreciably since the use was initially allowed;

(3) The floor area of any proposed temporary structure does not exceed 0.5 floor area ratio;

(4) The development conforms to the setback and landscape requirements of this chapter, except for development lots where a screening wall or fence not exceeding six feet in height is erected along all public rights-of-way;

(5) The development conforms to the performance standards of this chapter;

(6) In addition to the design controls listed in this section, the executive officer may include additional conditions in the permit to ensure that the development does not adversely affect adjacent facility and the appearance of the district. Conditional use of vacant land permits issued under this rule may be modified by the executive officer at any time in response to valid public concern/complaint, to contain additional conditions for mitigation; and

(7) The proposed uses in no way prevents or delays the future development of the facility. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§ 206J-1, 206J-5, 206J-6)

§15-26-123 Flood hazard district.

The applicable provisions of Article 7 of the land use ordinance relating to flood hazard districts shall apply to all affected activities and properties within the Aloha Tower complex area. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5, 206J-6)

§15-26-124 Applications.

(a) Prior to submitting an application for a development permit, applicants shall be required to have

complied with section 15-26-59 of this chapter.

(b) A developer shall submit to the corporation four copies of a project plan as a part of the application for the development permit. The project plan shall satisfy the stated purposes of the permit applied for.

(c) The project plan shall clearly indicate how the proposed development would satisfy the standards and purposes of this subchapter and the Aloha Tower project area plan. In addition to any other information which the applicant may deem necessary to support the application, it shall include the following:

(1) Location map showing the project in relation to the surrounding area;

(2) Site plan showing:

(A) Property lines and easements with dimensions and area;

(B) The proposed building location, elevations, dimensions, sections, and floor plan and site sections to clearly define the character of the project;

(C) Location of existing buildings, site features and conditions; and

(D) Location and dimensions of existing and proposed easements, utilities, and rights-of-way;

(3) A land use plan showing:

(A) The locations and uses of all buildings and structures, the general bulk and height of all buildings and their relationship to each other and to adjacent areas, the gross floor areas of buildings by type of uses, the ground coverage of all buildings, and the FAR of the project;

(B) The locations and size of vehicular and pedestrian circulation systems (both exterior and interior), identification of public and private areas and their dimensions, the location and dimensions of off-street loading areas and the location of points of access to the site and to public transportation facilities;

(C) The locations and dimensions of parking areas, with calculations of the number of parking spaces;

(D) The location of land to be dedicated for public facilities;

(E) The location of land which is intended for common quasi-public, or amenity use but not proposed to be in public ownership, and proposed restrictions, agreements or other documents indicating the manner in which it will be held, owned, and maintained in perpetuity for the indicated purposes;

(F) Landscaping plan; and

(G) Location and amount of all open space and recreation areas;

(4) A detailed statement describing the manner in which the development would conform to the Aloha Tower project area plan and the purposes and standards of this chapter;

(5) A development program stating the sequence in which all structures, open and amenity spaces, vehicular and pedestrian circulation systems, and community recreational facilities are to be developed;

(6) The relationship, if any, of the development program to the city and county of Honolulu's capital improvements program;

(7) Analyses of traffic, wind, sun, and noise impacts;

(8) An analysis of the shadows to be cast by all buildings;

(9) A three dimensional study model; and

(10) Any additional information which the executive officer may request.

(d) The completed application shall be filed with the corporation. For a development not requiring a variance, the corporation shall (1) approve the application as submitted, (2) approve subject to such modifications or conditions as the corporation may establish at its sole discretion, (3) or deny with reasons for denial within sixty days of receipt of the completed application. For a proposed development requiring a variance, the decision on the development permit application shall be rendered within sixty days of the order approving or disapproving the variance. Such decision shall be made in writing and sent to the applicant.

(e) If a permit required by this chapter requires a public hearing, no request for postponement of the hearing shall be allowed after notice has been published; however, the applicant may withdraw the permit application. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-5)

§15-26-125 Determination by the corporation.

In reaching its determination on an application for a development permit, the corporation shall consider the following:

(1) Conformance of the proposed development with the Aloha Tower project area plan and in particular, the proposed use, density, height, arrangement and design of structures;

(2) Whether the maritime facilities meet the requirements and specifications established by the

corporation;

(3) Whether the setbacks, yards, pedestrianways, and related open spaces are so located and of sufficient dimensions to provide for adequate light, air and audio/visual separation;

(4) Whether the vehicular circulation system, including access and off-street parking and loading, is so designed as to provide an efficient, safe, and convenient transportation system;

(5) Whether the pedestrian circulation system:

(A) Is so located, designed and of sufficient size as to conveniently handle pedestrian traffic efficiently and without congestion;

(B) Is separated, if necessary, from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and

(C) Provides efficient, convenient and adequate linkages between the water's edge and public activity, on-site residential areas, commercial and employment areas, and adjacent downtown developments at all hours of the day and night;

(6) The adequacy of landscaping and screening of parking, loading and service areas as well as lighting and signs in relation to adjacent uses and public byways;

(7) The staging program and schedule of development;

(8) Relationship of new structures to the historically significant structures remaining within the project area;

(9) Surface treatments and overall quality of materials;

(10) Design continuity and overall appearance of the development from the street, the water and adjacent developments;

(11) Whether structures have an appropriate orientation to take advantage of winds, reduce direct sun exposure, and minimize shadow effect on adjacent buildings;

(12) Preservation of internal and adjacent view corridors;

(13) Whether the facades of buildings are properly articulated, colored, and, where appropriate, landscaped;

(14) Any other matter relating to the development or its impact on affected properties or public facilities. [Eff FEB 21 1992] (Auth: HRS §§ 206J-5, 206J-7) (Imp: HRS §§206J-5)

§15-26-126 Lapse of development permit.

(a) Any planned development permit granted under the provisions of this subchapter shall automatically lapse if the initial building permit authorizing the construction of the foundation or superstructure of the project shall not have been issued within two years from the date of the permit.

(b) Should a development permit provide for phased construction, the phases shall be constructed in accordance with the time periods set forth therein; however, if no time is specified, the development permit shall lapse if the building permit for the subsequent phase shall not have been issued within one year of the issuance of the occupancy permit for the previous phase.

(c) The corporation may grant up to two extensions to the effective period of a development permit, not to exceed two years each, upon the applicant's request and justification in writing for an extension, provided the request and justification are received by the corporation at least one hundred days in advance of the automatic termination date of the development permit and there are no material changes in circumstances which may be cause for denial of the extension. The corporation shall hold a public hearing on an extension request if a public hearing had been held on the development permit or any variance or modification granted as part of the development permit process. The request for extension shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-127 Modification of specific provisions.

As a part of the development permit review process, the corporation may modify plan and rule requirements provided a public hearing is held. Except as otherwise specifically provided, modifications may be granted only to the following:

(1) Building envelope requirements;

- (2) Yards;
- (3) Loading space;
- (4) Parking; and Uses. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J -5)

§15-26-128 Conditions for modification.

(a) In order for the corporation to consider modification of the zoning requirements listed in section 15-26-127, the applicant must demonstrate that:

(1) The modification would provide flexibility and result in a development that is practically and aesthetically superior to that which could be accomplished with the rigid enforcement of this chapter;

(2) The modification would not adversely affect adjacent developments or uses; and

(3) The resulting development will be consistent with the intent of the Aloha Tower project area plan.

(b) The corporation shall specify the particular evidence which supports the granting of a modification and may impose reasonable conditions in granting a modification.

(c) The application for modification shall be accompanied by a fee of \$200 plus the cost of publication of notice to defray the expenses of holding a hearing. The cost of the hearing notice shall be refunded only if the public hearing notice has not been submitted to the publishing agency. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

§15-26-129 to §15-26-148 (Reserved)

§15-26-149 Rules review and amendment.

The development plan for the Aloha Tower project area is subject to amendment as provided therein. These Aloha Tower project area rules may be modified or amended in the same manner as they were promulgated, or through such other procedure as may be authorized by the corporation's rules of practice and procedure or by applicable law. All such changes shall be subject to approval by the corporation's board. [Eff FEB 21 1992] (Auth: HRS §§206J-5, 206J-7) (Imp: HRS §§206J-1, 206J-5)

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ALOHA TOWER DEVELOPMENT CORP.

ALOHA TOWER COMPLEX & ALOHA TOWER PROJECT AREA BOUNDARIES

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ALOHA TOWER

PROJECT AREA

LAND USE ZONES

ALOHA TOWER DEVELOPMENT CORPORATION

ALOHA TOWER PROJECT AREA PLAN

ALOHA TOWER COMPLEX

Prepared by:

State of Hawaii

Aloha Tower Development Corporation

33 South King Street, Suite 403

Honolulu, Hawaii 96813

(808) 548-6585

ALOHA TOWER PROJECT AREA PLAN

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1.0. INTRODUCTION

1.1. PROJECT NEED

The State of Hawaii has recognized Aloha Tower and the surrounding piers as a valuable asset to be developed in the best interests of the citizens of the State. The area remains the State's focal point for cruise and interisland ship activity. The State has also recognized that the land area surrounding Aloha Tower can become a major center for people-oriented activities, including commercial, hotel, and retail functions which will complement the adjacent central business district, the on-going redevelopment of the Kakaako area by the Hawaii Community Development Authority, and the long-range vision set forth in the Honolulu Waterfront Master Plan.

Pursuant to this recognition, the first State effort to develop the Aloha Tower area was initiated by the State Legislature when it enacted House Bill No. 1874, House Draft 2, Senate Draft 1 in the 1981 legislative session. This legislation acknowledged the economic value of the Aloha Tower area and created the Aloha Tower Development Corporation (ATDC) to act as the State of Hawaii agency to develop the area. The bill assigned ATDC to the State of Hawaii Department of Business, Economic Development and Tourism (DBED&T) for administrative purposes and was signed into law as Act 236, Session Laws of Hawaii 1981, by Governor George R. Ariyoshi on June 23, 1981. It was codified in the Hawaii Revised Statutes (HRS) as Chapter 2065 and states in part:

"The legislature further finds that the Aloha Tower complex still serves a vital maritime function that

must be maintained to insure adequacy and viability for existing and future maritime activities. The purpose of this chapter is to establish a new public body corporate and politic and public instrumentality of the Aloha Tower complex to strengthen the international economic base of the community in trade activities, to enhance the beautification of the waterfront, and in conjunction with the department of transportation to better serve modern maritime uses, and to provide the public access and use of the waterfront property. Properly developed, the Aloha Tower complex will further serve as a stimulant to the business community and help transform the waterfront into a "people place".

1.2. ALOHA TOWER DEVELOPMENT CORPORATION (ATDC)

The ATDC is charged with defining, protecting and maximizing the public interest during the redevelopment of the Aloha Tower area. Because the proposed development project will not use government funding for any of the improvements, the ATDC is also charged with the enhancement of the commercial feasibility and financial attractiveness of the project to enlist the participation of private enterprise.

Chapter 206J established a board of seven voting directors to oversee the activities of ATDC. Of the seven directors, four are ex-officio public officers and three are appointed by the Governor from the public at large. The four ex-officio members are: the Director of DBED&T, who is designated by law as Chairperson; the Director of Department of Transportation; the Chairperson of the Board of Land and Natural Resources; and the Mayor of the City and County of Honolulu.

In 1988, ATDC issued the current administrative rules for selecting a developer and administering the development of the Aloha Tower area. These rules of practice and procedure were adopted in February, 1989, and contained a list of 16 development objectives.

1.3. DEVELOPMENT OBJECTIVES

The rules stated that the corporation shall be guided by the following development objectives in formulating a development plan for the Aloha Tower Complex and in selecting any proposal submitted by any qualified person for the development of all or any part of the Aloha Tower complex or related areas.

- (1) Ensure the project is capable of integration into any overall development plan which may be adopted for the Honolulu waterfront.
- (2) Maintain passenger ship operations in a manner compatible with the development of the downtown waterfront as a people place and in conformity to the maritime requirements of the department of transportation.
- (3) Balance practical economic and market realities with a vision of what can be created.
- (4) Provide ease of pedestrian access to the project and waterfront, and generous open spaces for public enjoyment by eliminating visual and physical barriers between the waterfront and downtown, and by creating strong pedestrian links between downtown and Aloha Tower, particularly along Fort and Bishop streets.
- (5) Improve view corridors down Fort street, Bishop street and Alakea street.
- (6) Expand and improve Irwin park while maintaining its rich vegetation.
- (7) Create a homogeneous project that avoids fragmentation.
- (8) Feature and enhance the physical, public use and visual characteristics of the historic Aloha Tower.
- (9) Minimize unattractive physical facilities (e.g. parking, utilities, service and back-of-house operation).
- (10) Plan buildings and project features to attract people to the waterfront and create a major public gathering place at the Aloha Tower complex by enhancing public access to and along the water's edge and by creating opportunities for a variety of water's-edge experiences appropriate to the downtown waterfront.
- (11) Develop uses which would stimulate and be compatible with the commercial activities of the downtown business community, which may include, but need not be limited to, retail, restaurant, office, hotel, condominium, recreational, historical and cultural uses; and create new activities to assist in bringing people to the waterfront.
- (12) Provide accessible vehicular ingress and egress, and create a parking strategy which minimizes both

the cost and impact of parking on the Aloha Tower complex.

(13) Establish a construction phasing strategy which will minimize disruption of maritime operations and achieve planned development of the Aloha Tower in the earliest practicable time.

(14) Create a financially feasible and aesthetically creative project which can be initiated at the earliest practicable time.

(15) Encourage, to the extent possible, development of the Aloha Tower complex and adjoining areas by a qualified private sector developer who will provide all or substantially all of the costs of development.

(16) Utilize the powers of the development corporation to transcend, as necessary, zoning, density and height limitations in an aesthetically pleasing manner to accomplish the goals of the development corporation and to encourage private sector developers to undertake development plan solutions which will satisfy the foregoing development objectives.'

1.4. DEVELOPER SELECTION

In May of 1989, ATDC issued a Request for Proposals (RFP) to develop the Aloha Tower area. On October 3, 1989, four proposals to develop the Aloha Tower area were submitted by development teams to ATDC. The development teams made presentations of their proposals to ATDC and its consultant team on November 2 and 3, 1989. The proposals were then evaluated in detail by ATDC and its consultant team.

On December 21, 1989, a public hearing and a meeting were held to select the development team. After testimony from the public, the ATDC Board of Directors selected Aloha Tower Associates (ATA) as the designated developer for the Aloha Tower area.

1.5. PROJECT AREA

The project area for the Waterfront at Aloha Tower proposed by ATA presently encompasses Piers 5 through 14, excluding portions of Pier 7 (see Figure 1). This area is located within Tax Map Key plats 1-1-01, 2-1- 01, 2-1-13, 2-1-27, and 24-15 (see Figure 2). All of the parcels within the project site are owned by the State of Hawaii. With respect to the current ATDC boundaries (see Figure 3), the project area extends beyond the southeastern boundary at Piers 5 and 6 where the pier extensions are planned. Otherwise, the project area is completely within the ATDC boundary, which also includes Pier 7 and areas to the northwest as far as Pier 23 and portions of the Iwilei area.

1.51 Land Ownership

All land within the project site from Piers 5 to 14 is owned by the State of Hawaii, and is controlled by the Department of Transportation, Harbors Division. Ala Moana Mini Park, while also owned by the State of Hawaii, is controlled by Department of Transportation, Highways Division.

1.52 Harbor Functions

Piers 5 and 6 flank the filled land peninsula makai of the Federal Building (see Figure 4). The peninsula is used as a public parking lot while Pier 5 is the berthing area for the Alii Kai dinner cruise vessel. Pier 6, currently unoccupied, was recently vacated by the defunct Oceania Floating Restaurant. Makai of the HECO power plant at Pier 7 is the Hawaii Maritime Museum. Coasters Restaurant is adjacent to the Hawaii Maritime Museum along the pier. The "Falls of Clyde", a four-masted schooner listed on the National Register of Historic monuments and given National Landmark status in 1989, is permanently berthed on the Ewa side of Pier 7. Neither the Hawaii Maritime Museum nor the Falls of Clyde are within the project area. Piers 8, 9, 10 and 11 front the land-filled peninsula on which Aloha Tower is located. The U-shaped building that occupies the peninsula and surrounds Aloha Tower consists of the following three levels:

Pier Level: Shipping and receiving, parking lot, rental storage space, restaurant, office space, and the

Harbor Patrol office.

Mall Level: Passenger terminals at Piers 9 and 10, Harbors Division District Office Services, commercial offices along a 12,500 square foot gallery between Pier 8 and 11, Aloha Gift and Camera shop, and American Hawaii Cruises.

Mezzanine Level: U.S. Immigration Service, shipping agents, and U.S. Customs.

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THE WATERFRONT AT ALOHA TOWER
PROJECT AREA MAP

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TAX MAP KEY LOT NUMBERS

1 - 1-7-01:3
2 - 1-7-01:2
3 - 1-7-01:14
4 - 1-7-01:15
5 - 1-7-01:1
6 - 2-1-01:5
7 - 2-1-01:1
8 - 2-1-01:13
9 - 2-1-15:1
10 - 2-1-15:11
11 - 2-1-15:12
12 - 2-1-13:7
13 - 2-1-27:1

NOT TO SCALE

THE WATER FRONT AT ALOHA TOWER

Fig. 2

PROJECT AREA BY TMK PARCELS

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THE WATERFRONT AT ALOHA TOWER

Fig. 3

ATDC BOUNDARY

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THE WATERFRONT AT ALOHA TOWER

Fig. 4

AERIAL PHOTOGRAPH OF PROJECT AREA

Aloha Tower contains offices for the Department of Transportation (DOT) Administration Services, the Harbor District Manager for Oahu, the Hawaii Pilots Association, the Hawaii Maritime Museum, as well as the clock room and the observation deck.

Hale Awa Ku Moku Building (the former Matson Building) on Nimitz Highway at the mauka end of Pier 11 houses the administrative offices of the Harbors Division and the Motor Vehicle Safety Office. Parking for DOT employees and visitors is provided on ground level pavement outside the building.

Pier 12 is a land-filled pier used as a parking lot by DOT employees.

Piers 13 and 14 flank a pile supported, covered structure which is occupied by a marine salvage company, and Midpac Towing. An ice dispenser at the pier's end supplies fishing boats.

2.0 PLAN DESCRIPTION

2.1 LOCATION

The Waterfront at Aloha Tower project area, located makai of Nimitz Highway at Piers 5 through 14 (excluding portions of Pier 7) in Honolulu Harbor, comprises a land area of approximately 22.4 acres (see Figure 1). The entire ATDC boundary area, which includes submerged lands surrounding the piers, is approximately 87 acres (see Figure 3). Piers 5 through 14 constitute the waterfront edge of the Central Business District (CBD) of Honolulu. The Aloha Tower area is approximately equidistant between Honolulu International Airport and Waikiki and contains the famous landmark, Aloha Tower, as well as Irwin Memorial Park. The Hawaiian Electric Company (HECO) power plant site is not included within the project area.

2.2 DEVELOPMENT CONCEPT

The Waterfront at Aloha Tower will integrate cruise ship and intra-island vessel terminal facilities with hotel, office, retail and restaurant use. These proposed uses will create a distinctive terminus for the Fort Street Mall, which will be extended through the project as a roadway to connect Downtown with the water's edge.

Specifically, proposed development components will include: the Maritime Building and Passenger Terminal with commercial and governmental offices at Piers 5 and 6; the Pedestrian Promenade extending from Piers 5 to 14 with retail emphasis between Piers 6 and 9; Aloha Tower Marketplace retail and office space at Piers 8 and 9 with maritime improvements at the pier fronts; a refurbished and beautified Aloha Tower; an international cruise ship terminal at Piers 10 and 11 with a hotel, offices and/or condominium above; Honolulu Fort Historic Park at Pier 12; and residential condominium and/or office towers at Piers 13 and 14 with maritime facilities at pier level (see Figures 5 & 6).

The Waterfront at Aloha Tower is characterized by its high diversity of proposed uses; almost every pier combines commercial maritime operations with public activities. The general purpose of the proposed project is to revitalize the commercial marine cruise ship industry in Honolulu in a manner which makes the waterfront more accessible to the people in Hawaii. The specific purpose of each activity is outlined by pier in Table 1.

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THE WATERFRONT AT ALOHA TOWER

Fig. 5

ROOF PLAN

PHOTOGRAPHS OF THE PROJECT AREA

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TABLE 1: SUMMARY OF PROPOSED MARITIME AND PUBLIC USES BY PIERS

Piers 5/6

Commercial Maritime: Modern two-berth cruise ship terminal with associated commercial and maritime related offices. Occasional contingency use for general maritime berthing.

Public Transportation: Potential boarding site for water taxi and surface-effect ferry service.

Public Access: Beginning of Pedestrian Promenade. Potential public use of cruise ship terminal facilities for civic activities, such as performances, meetings and sports events.

Pier 7

Public Access: Duke Kahanamoku Water Sports Center, Maritime Museum and historic vessel, "Falls of

Clyde," as way point attractions on the Pedestrian Promenade.

Pier 8

Public Transportation: High-speed (surface-effect ship) ferry terminal with handicap access for intra-island and inter-island commute services.

Public Access: Continuation of Pedestrian Promenade.

Pier 9

Public Transportation: Public boarding for water taxi.

Public Access: Continuation of Pedestrian Promenade with way points for viewing and participation at amphitheater.

Commercial Recreation: Public boarding facility, including handicap for existing dinner cruise vessels.

Commercial Maritime: Multi-purpose contingency ship berthing with limited boarding and service facilities. Interim berthing for transient vessels of various types and sizes.

Piers 10/11

Commercial Maritime: Modern cruise ship terminal for large passenger vessels. Interim berthing for transient commercial vessels.

Public Access: Continuation of Pedestrian Promenade under very limited circumstances when the berth is not occupied.

Pier 12

Public Access: Honolulu Fort historic site improvements as a feature of the Pedestrian Promenade.

Piers 13/14

Commercial Maritime: Overnight berthing and light maintenance for the surface-effect ferry vessels.

Public Transportation: Water taxi stop.

The construction of public and private improvements will be closely coordinated with the Aloha Tower Development Corporation, both in terms of design and execution. In addition, ATA has established a construction strategy that will permit continued use of the Aloha Tower during construction for harbor traffic control purposes.

All improvements for public use within the project area, including roadway improvements at Fort, Bishop and Richards Streets as well as Ala Moana Boulevard, the restored Irwin Park, the new Honolulu Fort Historic Park, Ala Moana Mini Park, the Pedestrian Promenade and plaza areas will be maintained by ATA for the 65 year term of the lease agreement.

2.3 ARCHITECTURAL THEME

The overriding objective of the Aloha Tower development design has been the preservation of the Aloha Tower as the dominant symbol of the waterfront at Honolulu Harbor. The broad circular plaza at the Tower's base, the retail buildings which border this courtyard, and the wide pedestrian promenades which lead into it, will all direct attention to this historic landmark. Aloha Tower itself will be beautified and refurbished, and may be connected by escalator from the main plaza to parking below so that it will be the focal point of activity for visitors, both coming and going. Fort Street, one of Honolulu's oldest streets, will provide street level vistas through new archways at the reconstructed base of the Aloha Tower to the ocean beyond. The proposed high-rise structures at the mauka portion of the project site will be situated in order not to detract from Aloha Tower's prominence on the waterfront.

The low-rise structures adjacent to Aloha Tower have likewise been designed to emphasize the prominence of Aloha Tower as the symbol of the entire waterfront. The wide windows, gentle archways, green tile roofs and recessed lanais of these buildings are all reminiscent of what is known as the classical era in Hawaiian architecture.

2.4 PROPOSED DEVELOPMENT

2.41 The Maritime Building and Passenger Terminal at Piers 5 and 6

The new Maritime Building and Passenger Terminal will be built on Piers 5 and 6, which will be extended to the Federal Project Line (FPL), which is the shoreward limit of federal responsibility for channel maintenance (see Figure 7). There will be no increase in the present fill land. As requested by the State, ATA, in conjunction with the Department of Transportation-Harbors Division (DOT-Harbors), will seek to extend this line even further to construct catwalks and breasting dolphins to accommodate the length of larger ships from bow to stern. This will require moving both the United States Pier and Bulkhead Line (USPBL) and the FPL. Changing the USPBL and the FPL requires a Corps of Engineers permit with federal approval. The FPL change may additionally require Congressional action.

The complex at Piers 5 and 6 will include a modified H-shaped building with two long wings located parallel to Piers 5 and 6, each five to six stories tall (see Figure 8). At the center of the cross piece joining the two wings will be a circular, sky-lit, central rotunda that is the main entrance to the facility. Office space serving DOT-Harbors, maritime related firms, and others wishing to relocate to the Waterfront will occupy the upper floors. The office space for DOT-Harbors replaces existing office space that will be demolished. Total office space at Piers 5 and 6 will be up to 385,000 gross square feet.

The first two levels of the maritime facility, with a total area of approximately 155,000 gross square feet, will accommodate the loading/unloading of passenger cruise ships; immigration

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THE WATERFRONT AT ALOHA TOWER

Fig. 7

FEDERAL PROJECT LINE

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THE WATERFRONT AT ALOHA TOWER

Fig. 8

MARITIME BUILDING ELEVATION

clearance and customs inspection; and loading/unloading of passenger buses. Small retail shops, restaurants, and snack shops (up to 30,000 gross square feet of retail space) will occupy the ground level and a portion of the second floor for the convenience of office and dock workers and cruise ship passengers.

There will be a minimum of approximately 600 parking spaces, including approximately 189 reserved stalls for DOT office personnel. Elevator cores will connect the garage with the upper levels. Ala Moana Mini Park, controlled by the State DOT-Highways Division, is located mauka of Piers 5 and 6 facilities. The current parking area at the mini park may be retained, reconfigured or removed, and a portion of the park may be used as necessary to support utility services required at the waterfront. Any utility support facilities provided will be screened from view with appropriate landscaping. A half-circle driveway located on the Ala Moana Boulevard side of Ala Moana Mini Park may be implemented to tunnel under the boulevard and into the Piers 5 and 6 facilities. To the extent that parking remains or is reconfigured in this 37,011 square foot park, the adjacent perimeter of the park will be bermed and landscaped to screen the parking from view to enhance the visual appeal of the Waterfront for both visitors and downtown residents alike.

2.42 Duke Kahanamoku Water Sports Center at Pier 7

As a memorial to Hawaii's premier waterman, the Duke Kahanamoku Water Sports Center is a

collaborative undertaking between ATA and the Hawaii Maritime Center (HMC) located at Pier 7, and is subject to the mutual approval of ATA and the board of directors of HMC. The proposed Center will be a facility where athletes can plan canoe regattas and other water sports events to help make Hawaii the water sports capital of the world. Adjacent to the water between Piers 7 and 8, where Duke Kahanamoku set his first swimming record in 1911, the facility will emphasize Hawaii's role in water sports history.

2.43 The Aloha Tower Marketplace at Piers 8-9.

Located in the vicinity of Aloha Tower at Piers 8 and 9 (and the makai end of Pier 10), the Aloha Tower Marketplace will be the primary destination of visitors to the waterfront (see Figure 9). The concept of attracting people to the waterfront with entertaining features has been enormously successful elsewhere. James W. Rouse, founder and Chief Executive Officer of The Enterprise Development Company (which, through an affiliate, is one of the two general partners in ATA), was the first to introduce the "festival marketplace" concept and has since pioneered successful downtown revitalization projects such as Faneuil Hall marketplace in Boston, Harborplace in Baltimore, and Darling Harbourside in Sydney. Honolulu's own Aloha Tower Marketplace will feature retail shops, a variety of small vendors with emphasis on local ownership, and food outlets with a distinctly local character in up to 300,000 gross square feet of retail space. Subject to the mutual approval of ATA and the board of directors of HMC, the Marketplace will also function as an extension of the Pacific Canoe Museum at Pier 7, with appropriate displays throughout the common areas.

The upper two floors of the marketplace will be reserved for up to 160,000 gross square feet of commercial office space, adding the vitality of integrated joint-use to the marketplace concept. Pier 8 will berth the high-speed commuter ferry and any other vessels deemed appropriate. Pier 9, at the seaward face of the peninsula, will have a unique dual-use pier design, allowing water taxis and other smaller power craft to berth at a lowered dock which will also be equipped with breasting dolphins to accommodate large transient and dinner cruise vessels. The Waterfront along Pier 9 will feature outdoor cafes and restaurants, and the Pier's Ewa end

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THE WATERFRONT AT ALOHA TOWER

Fig. 9

MARKET PLACE ELEVATION

will be reconfigured to create a protected inlet for water taxis. This inlet will double as an outdoor amphitheater for public events such as concerts and other stage performances.

The makai end of Pier 10 will function in three distinct capacities: as a "stage" for performances at the inlet "amphitheatre;" as a mooring dolphin for major vessels calling at Piers 10 and 11; and as an embarkation/debarkation point for dinner cruise vessels with bus service from the Pier 10/11 truck concourse. The current parking facilities at Irwin Park will be relocated elsewhere and the entire park will be beautified and relandscaped in a fashion similar to the Iolani Palace grounds. Major existing trees will be saved to provide a shady canopy for park users, who will enjoy colorful planter beds, stone paved walkways, and tasteful street furniture. A grassy plateau, sized to accommodate a symphony orchestra, will be used as a stage for concerts and other cultural events for the public's enjoyment.

2.44 Hotel/Offices/Condominiums/Passenger Terminal at Piers 10 and 11

A two-level cruise ship passenger terminal will front Piers 10 and 11. Above and adjoining the terminal at the mauka end of Pier 11 will be an integrated mixed-use complex with a hotel, offices and/or condominiums offering scenic vistas of Honolulu Harbor and the ocean beyond.

Passenger Terminal. Physical dimensions of the new passenger terminal are based on the configurations of vessels expected to call at the new facility. Berthing facilities were determined with regard to length,

tonnage, draft, and maneuvering of both the largest (Queen Elizabeth II) and the smallest (Costa Cruises' Danae) vessels. The two levels of maritime space have a total area of up to approximately 100,000 gross square feet on Piers 10 and 11, including truck chase and other shared areas, and will be designed to accommodate the loading/unloading of passenger cruise ships, immigration clearance and customs inspection.

Seen from the Harbor, the facility's stucco finish, broad archways, and wood trellises will be a welcoming spectacle which will be both classical and functional. All piers in the project, including new breasting dolphins at Pier 9, will be faced with modern low-friction, non-marring, resilient fenders designed to absorb the full breasting energy of vessels during berthing operations while causing minimal abrasion to the ships' painted surfaces.

Mixed-Use Complex. A mixed use complex containing a hotel, offices and/or residential condominiums will be built above and adjacent to the passenger terminal. The complex will consist of a high rise tower adjacent to Nimitz Highway and two lower wings over the terminal. The pier side wing will be approximately 120 feet high, including two levels of maritime space on the first two floors, and the park side wing will be approximately 100 feet high, including the passenger terminal at ground level.

The high rise tower will be approximately 400 feet high with up to 550,000 gross square feet of hotel, office or condominium space. Its location close to Nimitz Highway merges the building with the high-rises in the downtown financial district and distances it from low-rise development and open space around the Aloha Tower. Nearby Irwin and Walker Parks will provide surrounding public space for the enjoyment of office tenants, residents and/or visitors. The permanent open space surrounding the tower, comprised of Irwin Park, the low rise marketplace, Nimitz Highway and Walker Park, will provide panoramic views in all directions. A pedestrian bridge over Nimitz Highway may be constructed to provide direct access from the complex to Walker Park and the adjacent financial district.

The mixed use complex will contain a hotel with up to 350 guest units serving the needs of business travelers through integration with the adjacent offices and close proximity to the adjoining CBD of Honolulu. Other portions of the hotel may be occupied, from time to time, for any appropriate use, provided that the hotel at all times has a minimum of 109 guest rooms committed to hotel operations. Facilities shared with the office complex will include the health club, swimming pool, and conference rooms. This integration of a hotel and major office complex will be the first of its kind in the State.

Parking Facility. The parking facility at Piers 8-11 will be partially located underground to augment park space and visual appeal. It will provide approximately 2,000 spaces beneath the Aloha Tower Marketplace and Irwin Park, and within the mixed use complex. At least two entrance/exits will be provided into the parking facility. One will be located near where the Irwin Park pedestrian walkway crosses over Ala Moana Boulevard to the Aloha Tower Marketplace. The driveway ramps at this location will enter and exit on either side of the walkway to minimize interference with pedestrians. The other point of entry will be off of Fort Street between Ala Moana Boulevard and Nimitz Highway. Access from the garage to ground level facilities may be by elevator or escalator near the reconstructed base of Aloha Tower, and by elevator or stair into the mixed use complex and Aloha Tower Marketplace.

2.45 Honolulu Fort Historic Park at Pier 12

Pier 12 will be the site of Honolulu Fort Historic Park, a monument to the history of Honolulu Harbor. Featured at the Historic Park will be an interpretive display and broad steps leading to the waters' edge where the last remnants of the old Forts' coral blocks are still visible. The park will be pedestrian-oriented, with no vehicular access or parking.

2.46 Residential Condominiums/Offices at Piers 13 and 14

The complex on Piers 13 and 14 will consist of sensitively articulated twin towers approximately 400 feet

tall. The residential condominium units and/or offices will have views of the harbor and Aloha Tower and will be linked by a pedestrian promenade to all other areas of the waterfront. The complex will provide up to 500 or more parking stalls; at least 50 percent of such stalls will be located on-site while any remainder will consist of parking rights in a nearby off-site parking structure. All above ground parking shall be architecturally screened from view. At pier level, facilities for supporting ferry operations, including office space, berthing and light maintenance facilities, shall be provided.

2.47 Pedestrian Promenade

The Pedestrian Promenade will connect all components of the waterfront from Piers 13 to 14. This feature complements the State's long-range plan to make as much of the coastline as possible from Waikiki to the airport accessible to the public. There will be up to 9,600 gross square feet of retail space on the promenade, consisting of vendor-type small mobile facilities. The Promenade is linked to adjacent areas of Downtown Honolulu by means of wide new crosswalks at resignalized intersections across Nimitz Highway plus the pedestrian overpass connecting the project to the financial district at Walker Park.

2.48 Vehicular Access

Vehicular access to the Waterfront at Aloha Tower will be at Piers 13 and 14, Pier 11 (truck concourse), Fort Street, Bishop Street, and Richards Street.

The entry at Piers 13 and 14 serves the two towers and the commuter ferry support facilities. Access for Diamond Head bound traffic is via right turn from Nimitz Highway. Access for Ewa bound traffic is via a left turn to be provided at the intersection of Smith Street. Traffic from

Piers 13 and 14 will exit at Nimitz Highway and Smith Street and may turn left or right onto Nimitz Highway or proceed mauka along Smith Street.

The entry at Fort Street primarily serves the Passenger Terminal at Piers 10 and 11, the mixed use complex and the Aloha Tower Marketplace. This entrance can be accessed from the Diamond Head bound lanes of Nimitz Highway. Left turns from the Ewa bound lanes of Nimitz Highway will be restricted to off-peak hours only. Exiting traffic may either turn right to travel in the Diamond Head direction or left to travel in the Ewa direction.

A service entrance at Pier 11 for both Diamond Head bound and Ewa bound Nimitz Highway traffic will accommodate large trucks and other service vehicles away from public view in the truck concourse adjacent to Piers 10 and 11.

The Bishop Street entrance will primarily serve the Aloha Tower Marketplace and can be accessed from the Diamond Head bound lanes of Nimitz Highway and from Bishop Street. Exiting traffic may travel in either the Diamond Head or Ewa direction.

The Richards Street entry is primarily for the Maritime Building and Terminal at Piers 5 and 6 and can be accessed from both the Ewa and Diamond Head bound lanes of Nimitz Highway.

The Ala Moana Boulevard exit to Nimitz Highway will permit access to Ala Moana Boulevard Diamond Head bound and to Nimitz Highway Ewa bound.

2.5 CONSTRUCTION REQUIREMENTS

2.51 Piers 5 and 6:

Piers 5 and 6 flank an existing manmade peninsula of fill land covered with riprap, concrete bulkheads, and pile supported breasting dolphins along the pier fronts. The general configuration of the existing

filled land area shall be preserved. The planned extension of Piers 5 and 6 to the Federal Project Line will be constructed on pilings. Upon receipt of all necessary governmental approvals, it is intended that an additional extension beyond the Federal Project Line will be constructed consisting of catwalks connecting the piers to breasting dolphins anchored by pilings.

Construction of the foundation for the cruise ship terminals, office building, and parking structure will involve removal of old fill and native material from the peninsula. Engineering studies will be conducted to determine construction requirements. For instance, some demolition, dredging and construction work may be conducted from barges in Honolulu Harbor. Blasting may be required if hard substrata are encountered during excavation. It is also anticipated that construction of any underground portion of the structure will involve dewatering the excavated peninsula site. Considerations in selecting the method of construction will include costs and potential environmental impacts, including siltation and the possibility that there are contaminants such as petrochemicals in the existing fill material

2.52 Pier 7:

The pier configuration at Pier 7 will be preserved, along with the existing Hawaii Maritime Museum and Coasters Restaurant. Pier 7 is not within the project area with the exception of the proposed Duke Kahanamoku Water Sports Center which, with the mutual approval of ATA and HMC, will be constructed near the mauka end of the pier using standard land-based construction methods. The existing vehicular ramp, which crosses above the mauka end of Pier 7, will be removed once access to the upper level passenger terminal is no longer required.

2.53 Piers 8-11:

Piers 8 through 11 border a manmade peninsula of fill land faced by concrete bulkheads. The configuration of the filled land area and wharf apron shall be preserved, except for the creation of a small boat landing inlet and amphitheater at the juncture of Piers 9 and 10. The filled land area will also be excavated for a below grade parking structure and the foundation for the cruise ship terminal facility, marketplace and mixed use complex.

Engineering studies will be conducted to determine appropriate construction requirements, including the need for dredging, blasting and dewatering. Considerations for construction at this pier include the preservation of Aloha Tower and maintaining harbor related functions throughout the construction period. A detailed plan for the interim relocation of the Harbors Division Administration shall be formulated. Land and water borne construction activities will affect other activities in the Harbor and consequently must be planned in detail with these constraints. Thus, the piers within the project have been planned for continued multiple uses according to the stated needs of the DOT-Harbors and several user maritime groups. A summary of uses, which currently includes commercial shipping, is provided in Table 1.

In addition, in as much as the intent is to bring people closer to water level, construction of the lowered boarding platforms at Pier 9 plus the small boat landing and amphitheater at the seaward end of the peninsula will require attention to wave surges. Wave dampening features will be examined to assure the safety of pedestrians and small boat traffic. Cruise ship operations currently at Piers 9-11 will be temporarily relocated during construction, most likely to Pier 2.

2.54 Pier 12:

Pier 12 is a small land-filled peninsula. Construction of the Honolulu Fort Historic Park at Pier 12 will basically involve demolition of the existing paved parking area and installation of landscaping and other park features such as a historic interpretive program.

2.55 Piers 13 and 14:

Piers 13 and 14 are constructed on pilings with only a minor amount of existing fill materials along Nimitz Highway. The pier structure will be strengthened to bear a below grade parking structure and other low rise elements. One tower will rise through the existing pier on an independent new foundation. The other tower will be constructed on pilings to be implanted in the water between Piers 12 and 13, with an elevated connection to Pier 13. Further engineering studies shall be conducted to determine appropriate construction methodologies.

2.6 ESTIMATED PROJECT COST/SCHEDULE

The estimated cost of developing The Waterfront at Aloha Tower is between \$ 750-800 million. The source of funding will be through the selected developer. The developer is responsible for the construction of the project facilities, and the operation and maintenance of these facilities as agreed between the developer and ATDC. Construction is scheduled to begin in late 1991 early 1992, with substantial completion of all facilities anticipated approximately four and one-half years after commencement of construction.

2.7 AMENDMENT OF PLAN

This development plan is based upon schematic designs for the project. ATDC recognizes that changes to this development plan may be necessary or desirable. All such changes shall be subject to approval by the ATDC board. This plan may be modified or amended in the same manner as it was promulgated, or through such other procedure as may be authorized by the corporation's rules of practice and procedure or by applicable law.